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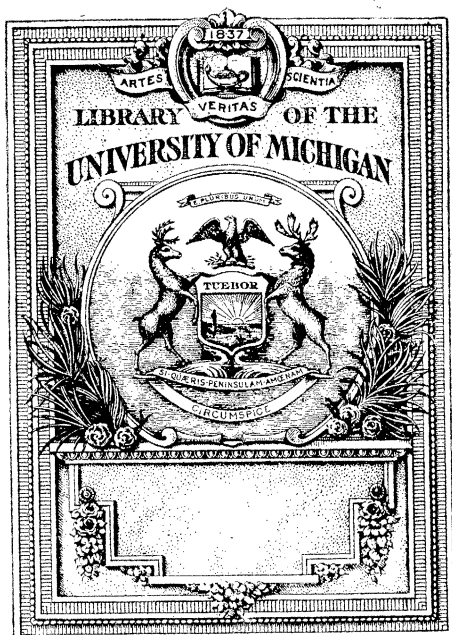
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Office of the Treasurer
Territory of Hawaii

CORPORATION, INSURANCE
AND
BANKING LAWS
OF THE
TERRITORY OF HAWAII

Including Amendments made thereto at the Session of the
Legislature for the Year 1915.

HONOLULU:
HONOLULU STAR-BULLETIN, LTD.
1915



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CHAPTER 181.

CORPORATIONS.

Creation, by Articles of Association.

Sec. 3272. Joint stock companies. Joint stock companies, for the purpose of carrying on any business or undertaking, either mercantile, agricultural or manufacturing, or buying, selling, leasing or otherwise dealing in real estate and buildings and other structures, whether used or intended to be used as shops, stores, warehouses, offices, boarding and lodging houses, hotels, or otherwise, for which individuals may lawfully associate themselves (excepting banking and professional business) shall be incorporated in the following manner and in no other.

Sec. 3273. Articles of association, contents. Any number of persons not less than five, a majority of whom are residents in this Territory, desiring to become incorporated as a joint stock company shall sign articles of association, and acknowledge the same before any officer authorized to take acknowledgments, which articles shall contain the following particulars:

First. The name of the corporation, which shall be followed by the word "Limited."

Second. The place of its principal office.

Third. The purpose of the company.

Fourth. The amount of its capital stock, and if the privilege of subsequent extension of the capital stock is asked for, the limit of such extension.

Fifth. The number and designation of officers proposed.

Sec. 3274. Articles of association, recorded where. Said articles of association shall be recorded in the office of the treasurer in a book to be kept for the purpose, which shall at all times during business hours be open to the inspection of the public without charge.

Sec. 3275. Affidavit, contents. An affidavit sworn to by the president, secretary and treasurer of such association shall

also be filed in the office of the treasurer at the time of filing the articles of association, which affidavit shall set forth the number of shares, amount of capital stock, the names of the subscribers for shares and the amount paid in. When the object of the incorporation is to take over and conduct any existing agricultural, grazing, manufacturing, shipping or trading business or enterprise, the affidavit shall also contain a full description of the property intended to represent the capital stock of the proposed corporation, a detailed valuation of each item of the said property, and a copy of the conveyance to be made by the owner or owners of said business or enterprise to the proposed corporation.

Sec. 3276. Joint stock companies, powers and liabilities. Upon the filing of said articles of association and affidavit the persons who have subscribed the same, their associates, successors and assigns, shall thereafter be deemed to be and be a body corporate by the name and style provided in said articles; and shall have succession and corporate existence for such term as may be agreed upon, not to exceed fifty years, and shall have all of the powers and be subject to all of the liabilities now provided by law for incorporated companies; and shall be subject to all general laws hereafter to be enacted in regard to corporations.

Sec. 3277. Capital necessary to engage in business. No corporation shall engage in business in this Territory unless three-fourths of the shares have been subscribed for; nor unless ten per cent. of the capital stock shall have been paid in, or the corporation shall have acquired property of a value equal to ten per cent. of its capital.

Sec. 3278. Provisions applicable to joint stock companies. Section 3282 shall not be held to apply to joint stock companies incorporated under sections 3272-3277, except as to increase of capital stock, but all other provisions of this chapter not inconsistent with said sections 3272-3277 shall apply to joint stock companies formed thereunder.

Creation, by Charter.

Sec. 3279. Charter, grant of. Except as otherwise provided, the treasurer, subject to the provisions and conditions of this chapter, and by and with the consent of the governor,

shall grant to all applicants who shall file petitions in conformity with the provisions of this chapter, charters of incorporation for cemetery associations, as well as charter other incorporations, either aggregate or sole, ecclesiastical or lay, municipal corporations excepted, which shall be chartered only by the legislature.

Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to corporations.

Sec. 3280. Charter, renewal of. The treasurer shall also have power on the expiration of any charter, to renew the same, on application to him for that purpose by two-thirds of the stockholders of such company, and a satisfactory explanation to him of the state of its affairs.

Sec. 3281. Perpetual charters and monopolies. Nothing in this chapter contained shall be construed to authorize the treasurer, as before provided, without the authority of the legislature, to grant any charter which shall in terms institute a monopoly for a longer term than five years, of any business or occupation; nor may he grant perpetual charters, without such authority, to any corporations, except to those for eleemosynary, literary, educational or ecclesiastical purposes, or for cemetery associations.

Sec. 3282. Application for charter. Except as otherwise provided, application to the treasurer for any charter of incorporation, shall be made by written petition, accompanied by proofs that three-fourths of the shares have been subscribed for, and in the case of joint stock companies, there shall in addition to such petition be also filed at the same time in the office of the treasurer a certificate, setting forth the location of the proposed company, the object of the incorporation, the amount of stock proposed, and if the privilege of subsequent extension of the capital stock is asked for, the limit of that extension, the proposed duration of the company, the time within which it is to organize, whether the liability of stockholders is proposed to be limited to the amount of their stock, or otherwise; and also whether the whole or any part of the capital stock is to be paid in before commencing operations, and if part, what part. **PROVIDED,** that if any petition for a charter of incorporation presented to the treasurer shall not be in conformity with the require-

ments of this section, the treasurer shall, within ten days, return the same to the petitioner, specifying wherein the same fails to conform with the said section, and the petitioner may thereupon amend the said petition, and present the same so amended. The treasurer shall thereupon present the petition and accompanying proofs to the governor.

Amendment of Charters and Articles.

Sec. 3283. Amendments, allowance of. The treasurer, with the approval of the governor, shall have power to grant and allow amendments to all existing charters of incorporation and articles of association of incorporated companies and all hereafter granted, Provided such amendments confer no other or greater powers or privileges than could be lawfully conferred or obtained in an original charter of incorporation or articles of association.

Sec. 3284. Amendments before October 18, 1894. All amendments to charters of incorporation or articles of association allowed and granted before October 18, 1894, are hereby declared valid.

Shares.

Sec. 3285. Stock book. In every joint stock company incorporated under the provisions of this chapter, it shall be the duty of the trustees, as managers or directors of such company, to cause a book to be kept for registering the names of all persons who are or shall become stockholders of the corporation and showing the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares, which book during the usual business hours of the day, on every day, except Sundays and legal holidays, shall be open for the inspection of the stockholders and creditors, and it shall be the duty of the clerk or the person having the charge thereof, to give a certified transcript of anything therein contained, to any stockholder or creditor of the corporation applying therefore; such transcript shall be legal evidence of the facts therein set forth in any suit by or against the corporation.

Sec. 3286. Transfer of shares. Whenever the capital stock of any corporation is divided into shares, and the certificates thereof are issued, transfer of the shares may be made by indorsement and delivery of the certificate. The indorsee shall be entitled to a new certificate upon surrendering the old one.

And no such transfer shall be valid, except between the parties thereto, until such new certificate shall have been obtained, or the transfer shall have been recorded on the books of the corporation, so as to show the date of the transfer, the parties thereto, their places of abode, and the number and description of the shares transferred.

Sec. 3287. Certificate shall show amount paid in. Every certificate of stock issued by any corporation shall plainly state how much of the par value of the same has been paid in.

Sec. 3288. Delinquent assessments, sale for. The directors of any incorporated company shall have power to sell at public auction a sufficient number of shares of any stockholder who shall neglect to pay any assessment duly levied upon the shares, until the whole par value has been paid in. Before making such sale, a notice of ten days shall be given to delinquent stockholders residing in this Territory, and a notice of intention to sell published for three weeks in the case of delinquent stockholders outside of this Territory.

Sec. 3289. Preferred stock. Any company incorporated under the laws of this Territory with power to issue stock may issue two or more classes of stock with such preferences, voting powers, restrictions and qualifications thereof as shall be fixed in the charter or articles of association, or any amendment thereof, by the vote of three-fourths of all its stock, or if two or more classes of stock have been issued, of three-fourths of each class of stock outstanding and entitled to vote.

Sec. 3290. Shares are personal property. The shares of the several members in the stock of any incorporated company, whether owning real estate or otherwise, shall be deemed in law personal property.

Reduction of Capital.

Sec. 3291. Procedure. Any corporation, including joint stock companies (but excepting banking, trust and insurance companies), upon complying with the requirements of this section, may, by vote of not less than three-fourths of all of the shares of stock, or if two or more classes of stock have been issued, of three-fourths of each class of stock outstanding and entitled to vote, at any meeting heretofore or hereafter duly

called and held for the purpose, effect a reduction of its capital and or capital stock, by retiring or reducing any class or number of shares of stock, or by reducing the par value of its shares of stock; and may thereupon withdraw, and distribute among its stockholders who may be entitled to participate therein, any assets in excess of an amount which in the opinion of the treasurer of the Territory shall equal in value the total par value of all shares of the remaining capital stock.

If reduction is made by the surrender and retirement of a portion of the outstanding stock, unless the resolution providing therefor shall with the consent of all of the stockholders or the subsequent approval of the treasurer specify the particular shares to be retired, each stockholder shall be entitled to participate pro rata in the surrender of certificates of stock for cancellation and retirement. If any stockholder shall fail to exercise his option so to do within thirty days after written notice mailed to him by the treasurer of the corporation, the corporation may accept any other shares in lieu thereof and retire the same.

A sworn certificate shall be signed by the presiding officer and secretary of the meeting and presented to the treasurer of the Territory setting forth therein the action taken, and certifying that at the time such vote was taken the corporation was not and has not since become indebted in any manner over and above half of the amount of its remaining capital stock. The treasurer shall record thereon the date of its receipt in his office and shall publish a notice of the same in some suitable newspaper in Honolulu at least once a week for four successive weeks, the first publication to be not more than ten days after the receipt of said certificate.

Upon the expiration of thirty days after the first publication of said notice, if no protest or objection to the proposed reduction of capital stock shall have been filed with the treasurer by any person claiming to be a stockholder or creditor of such corporation, the treasurer shall enter such decrease of capital stock of record, upon payment of the fee required by law, and the same shall thereupon stand effected as of the date of the original filing of said certificate. Otherwise the treasurer shall proceed to consider any objection made, and if he shall thereupon be satisfied that the vote certified has been truly taken, and that the corporation was not at the time of filing said certificate indebted beyond the limit aforesaid, he

shall enter such reduction of capital stock of record in manner aforesaid.

In case any distribution of assets in excess of the remaining capital stock is intended, if no objection thereto has been made by any stockholder or creditor, the treasurer shall approve such distribution; but if any objection is made thereto he shall also satisfy himself that such distribution is for the best interests of the corporation.

Meetings.

Sec. 3292. Voting at meetings. At any meeting of any corporation, it shall be lawful for the members in the transaction of business, to vote either in person or by proxy; Provided that nothing in this section shall be construed to restrain the power of any corporation to prescribe by its by-laws the mode of voting at meetings of its trustees, directors or board of managers.

Sec. 3293. Irregular meetings, how validated. When all the members of any corporation shall be present, either in person or by proxy, at any meeting however called or notified, and shall sign a written consent thereto, on the record of such meeting, the doings of such meeting shall be valid.

Sec. 3294. Business at such meetings. The members of such corporation so assembled may elect officers to fill all vacancies then existing, and may act upon such other business as might lawfully be transacted at regular meetings of the corporation.

Sec. 3295. Meeting called by circuit judge, when. Whenever, by reason of the death, absence or other legal impediment of the officers of any corporation, there shall be no person duly authorized to call or preside at a legal meeting thereof, any circuit judge of the circuit where such corporation is established, may, on written application of four or more of the members thereof, issue an order to either of the said members, directing him to call a meeting of the corporation, by giving such notice as shall be required by the by-laws of the corporation, and the said judge may, in the same order, direct one of the said members to preside at the meeting, and the proceedings of such meeting shall be valid.

Powers.

Sec. 3296. Powers, express. Every corporation created, or to be created in this Territory shall have power: 1st, to have succession by its corporate name for the period limited in its charter, but not beyond the period, if any, limited by law, and when no period is limited, perpetually; 2nd, to sue and be sued in any court; 3rd, to make and use a common seal, and alter the same at its pleasure; 4th, to hold, purchase and convey such real and personal estate, and no other, not exceeding the amount limited by its charter, including therein shares in other corporations, as the purposes of the corporation shall require, and to mortgage the same to secure any debt of the corporation; 5th, to appoint such subordinate officers and agents as the business of the corporation shall require; 6th, to make by-laws not inconsistent with any existing law, for the management of its property, the election and removal of its officers, the regulation of its affairs, and the transfer of its stock.

Sec. 3297. Powers implied. In addition to the powers enumerated in section 3296, no corporation created under the provisions of this chapter shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated, and of such subordinate powers as shall be expressly given by law or in the charter granted as by law provided.

Sec. 3298. Powers prohibited. Except as otherwise provided, no corporation shall be deemed to possess the power of discounting bills, notes or other evidences of debt, or receiving deposits, or buying gold, silver, bullion or foreign coin, buying and selling exchange, or issuing notes or other evidences of debt, except so far as the exigencies of the particular business for which it was incorporated shall require. Nor shall any corporation, unless authorized by express enactment of the legislature, issue bills or other evidences of debt for circulation as money.

Sec. 3298A. Power prohibited; pledge of stock. No corporation created under the laws of the Territory of Hawaii shall pledge or hypothecate any of the shares of its unissued capital stock or in any manner dispose of the same as collateral security, and any such attempted pledge, hypothecation or disposition shall be void and of no effect.

Duties and Liabilities.

Sec. 3299. Of directors or managers. The directors or managers of any incorporated company shall not make dividends except from the profits arising from the business of the corporation, nor may they divide, withdraw, or in any way pay away, to the stockholders or to any of them, any part of the capital stock of the company, or reduce the said capital stock, without the consent either of the power granting the charter or of the legislature. In case of any violation of the provisions of this section, the trustees, managers or directors, under whose administration the same may have taken place, shall in their individual and private capacities, be jointly and severally liable to the corporation and creditors thereof, in the event of its dissolution, to the full amount so divided, withdrawn, paid out or reduced; Provided, that nothing in this section contained shall prevent a distribution and division of the balance of the capital stock, remaining after payment of all its debts, or dissolution of the company or expiration of its charter.

Sec. 3300. Of stockholders. Where the whole capital of a corporation shall not have been paid in, and the capital paid shall be insufficient to satisfy the claims of its creditors, each stockholder shall be bound to pay on each share held by him the sum necessary to complete the amount of such share as fixed by the charter of the company, or such proportion of that sum as shall be required to satisfy the debts of the company.

Sec. 3301. Corporate liability for debts. All the property of any corporation, which may be created in virtue of this chapter, shall be liable for the just debts thereof, but no stockholder shall be liable for the debts of the corporation beyond the amount of what may be due upon the share or shares held or owned by him.

Sec. 3302. Limit of debts. The amount of debts which any corporation shall owe, shall at no time exceed the amount of its capital stock.

Sec. 3303. Penalty for false statements. Any person or persons who shall make a false statement in any affidavit, return, statement or certificate of stock in regard to a corporation, or who shall overvalue any property mentioned in such affidavit,

statement or return, or who shall do business as a corporation or hold themselves out to be a corporation without having complied with the provisions of law, shall be held to be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five thousand dollars.

Sec. 3304. Annual exhibit. Every corporation not eleemosynary, religious, literary, educational or promoting solely amateur athletics, shall annually present a full and accurate exhibit of the state of its affairs to the treasurer, as of December thirty-first of each year. Such exhibit shall be filed within sixty days after said day or such further time as may be allowed by the treasurer, provided such extension shall not exceed thirty days, and shall contain such information and be made in such form as the treasurer, with the approval of the governor, shall require. No such exhibit shall be available for inspection by others than officers of the Territory, or of any county, or the city and county of Honolulu, or by the officers or stockholders of the corporation which made the exhibit, or by any bona fide creditor of such corporation, provided, that the treasurer may permit the inspection of any such exhibit by any other person upon being satisfied that such inspection is desired for some lawful and proper purpose. The said treasurer shall have power, either himself, or by one or more commissioners appointed by him, to call for the production of the books and papers of the corporation, and to examine its officers, members and others touching its affairs, under oath. The annual reports above mentioned, and the result of such examination, the treasurer may in his discretion lay before the governor, and also publish. In case any such corporation shall refuse to produce its books and papers upon the request of the treasurer, or the commissioners appointed by him, or in case any of the officers or members of such corporation shall refuse to be examined on oath, touching the affairs of the corporation, then the treasurer, or the commissioners, may apply to a circuit judge at chambers for an order to compel the production of the books and papers or the examination of such officers or members of the corporation, obedience to which order may be enforced by said judge, in like manner with his ordinary decrees and orders. Any corporation violating any provision of this section shall be guilty of a misdemeanor and upon conviction thereof be fined in the sum of

not less than one hundred dollars nor more than one thousand dollars; a continuance of a failure to file the required report shall be a separate offense for each thirty days of such continuance.

Sec. 3305. Fees. On filing any certificate or other paper, relative to corporations, in the office of the treasurer of the Territory, in addition to the stamp duty and recording fee now charged, the following fees and taxes shall be paid to the treasurer of the Territory for the use of the Territory. For certificate of incorporation, twenty cents for each thousand dollars of the total amount of capital stock authorized, but in no case less than thirty-five dollars; increase of capital stock, twenty cents for each thousand dollars of the total increase authorized, but in no case less than twenty dollars; co-partnerships of corporations, twenty cents for each thousand dollars of capital authorized beyond the total authorized capital of the corporations composing such co-partnerships, but in no case less than twenty-five dollars; extension or renewal of corporate existence of any corporation, the same as required for the original certificate of organization by this section; change of name, change of nature of business, amended certificates of organization (other than those authorizing increase of capital stock), decrease of capital stock, increase or decrease of par value or of number of shares, twenty-five dollars; for filing annual exhibit of domestic and foreign corporations, ten dollars; for dissolution of corporation, no charge; and for all certificates not hereby provided for, five dollars. Provided, that none of these additional fees shall be required to be paid by any religious, charitable, educational or other corporation which does not issue shares of capital stock, nor by any other corporation which is not organized for pecuniary profit.

Sec. 3306. Certificate on increase of capital, filed with treasurer. No increase or extension of the capital stock of any corporation organized under the laws of the Territory of Hawaii, having authority under its articles of association or charter to increase its capital stock, shall be legal and effective unless a certificate shall have first been filed with the treasurer of the Territory, signed by the president and secretary of such corporation, showing (1) the present authorized capital stock of said corporation; (2) the amount to which the capital stock thereof may be increased or extended under

its articles of association or charter, and (3) the amount of increase or extension of such capital stock duly authorized by its stockholders; which certificate shall be accompanied by payment of the fee required to be paid upon the amount of increase so authorized. The treasurer shall not receive or file any such certificate without such payment.

Sec. 3307. Violation of charter of literary institution.

Whenever the department of public instruction shall be satisfied that the charter of any literary institution has been violated it shall be the duty of the superintendent of said department to report such violation to the attorney general, and said attorney general shall take immediate steps to have such charter annulled. .

Dissolution.

Sec. 3308. Procedure. Any corporation wishing to dissolve and disincorporate itself, before the expiration of its charter, may present a petition to the treasurer, together with a certificate setting forth that at a meeting of the stockholders, or members called for that purpose, it was decided, by a vote of three-fourths of the members or stockholders, to dissolve and disincorporate the corporation, which certificate shall be signed by the presiding officer and secretary of such meeting. The treasurer shall enter such petition and certificate of record in his office, and after sixty days' notice, by publication in Hawaiian and English, in such manner as he shall deem most effectual, shall proceed to consider the same, and when satisfied that the vote certified has been truly taken, and that all claims against the corporation are discharged, shall declare such corporation dissolved.

Sec. 3308A. Dissolution by Treasurer in Certain Cases. If any corporation shall have failed or neglected for a period of two years to file an annual exhibit as required by law, and the Treasurer shall be unable after due investigation to find any director or manager of such corporation in the Territory; or if any corporation shall have received a discharge in bankruptcy, the Treasurer may, in either of such events, annul the charter of any such corporation and declare the corporation dissolved, after publishing once every two weeks for eight weeks notice of his intention to dissolve such corporation. In the event of any such corporations being declared to be dis-

solved, any trustee appointed to settle the affairs of the corporation shall pay to the Territory out of any funds which may come into his hands as such trustee, a sum equal to the minimum fine which might be imposed under the provisions of Section 3304, which amount shall have priority of right over all other claims.

Sec. 3309. Proceedings after. Upon the annulment of the charter of any corporation, or upon its dissolution by expiration of its charter, or otherwise, unless other persons shall be appointed by the legislature, the treasurer, or by some court of competent authority, the directors or managers of the corporation, by whatever name known in law, shall be trustees for the creditors and stockholders, with full powers to settle the affairs of the corporation. Under the name of trustees of such corporation, they may, by suit or otherwise, collect and pay the outstanding debts, and divide among the stockholders the moneys and other properties that shall remain after payment of the debts and necessary expenses. And they shall be jointly and severally liable to the creditors and to the stockholders to the extent of the corporation property which shall come into their hands.

Such trustees shall forthwith advertise once a week for not less than four successive weeks in each of at least two newspapers of general circulation published respectively in the English and Hawaiian languages in this Territory, a notice to all creditors of the corporation to present their claims at a place to be designated in such notice within ninety days from the first publication of said notice. All claims not so presented shall be forever barred.

CHAPTER 182.

BANKING CORPORATIONS.

Formation.

Sec. 3310. Charter, grant of. Charters of incorporation for the purpose of carrying on the business of banking may be granted by the treasurer by and with the advice and consent

of the governor, subject to the provisions of this chapter, in like manner as other charters of incorporation may by law be granted.

Sec. 3311. Charter, contents. Every such charter shall designate:

1. The name of the corporation.
2. The principal place of its business.
3. The amount of its capital stock.
4. The number of shares into which the capital stock is divided.
5. The names and places of residence of the incorporators.
6. The amount of stock subscribed by the incorporators.
7. The term of years during which the corporation shall exist.
8. The names and places of residence of the directors who are appointed for the first year.

Sec. 3312. Memorandum of association. Before filing an application for any such charter the persons applying for the same must subscribe a memorandum of association containing the following particulars:

1. The name of the company with the addition of the word "Limited" at the end of the name.
2. The principal place of its business.
3. The objects for which the corporation is established.
4. A declaration of the liability of its members being limited.
5. The amount of its capital and the number of shares into which such capital is divided, and the amount of stock subscribed by the incorporators.
6. Whether it is proposed to increase the amount of such capital.
7. And also articles of association prescribing and defining the constitution, business and capital of the company, the amount, transfer and forfeiture of shares, the assessments or calls to be made on the stockholders, the appointment, qualification, remuneration, powers and duties of directors and of officers and such other regulations as the subscribers of the memorandum may deem expedient.

Sec. 3313. Certified copy, to be filed. Certified copies of the memorandum of association and articles of association shall be filed with the application for the charter.

Sec. 3314. Granting of charter, effect of. Upon the granting of the charter the memorandum and articles of association shall bind the corporation and its members as if each member had executed these instruments as deeds.

Sec. 3315. Granting of charter, conclusive as to what. The granting of the charter shall be conclusive as to the fact of the corporation having complied with the requirements of this chapter up to the date of the issuing of such charter.

Sec. 3316. Articles; alterations. The corporation may, by passing special resolutions at general meetings, from time to time alter or add to the regulations contained in its articles, and such regulations so altered or added shall be deemed of the same validity as if they had been originally in the articles of association.

Sec. 3317. Examination by, and certificate of treasurer. The treasurer shall examine into the condition of each corporation formed under this chapter and ascertain the amount of money paid in on account of its capital, the name and place of residence of each director and the amount of capital stock which each director owns in good faith and generally whether such corporation has complied with the provisions of this chapter to entitle it to engage in the business of banking, and if it satisfactorily appear to said treasurer that such corporation is lawfully entitled to commence the business of banking he shall deliver to such corporation a certificate stating that said corporation has complied with the provisions required to be complied with before commencing the business of banking, and that such corporation is authorized to commence such business, and such certificate shall be published in a newspaper published in the city of Honolulu for at least sixty days after the issuing thereof and shall be conclusive evidence as to the fact of the corporation having complied with the requirements of this chapter up to the date of such certificate.

Capital Stock.

Sec. 3318. Amount. No charter shall be granted under the provisions of this Chapter to any company whose principal

place of business is in Honolulu District and whose capital stock is less than two hundred thousand dollars (\$200,000.00); and no charter shall be granted under the provisions of this Chapter to any company, whose principal place of business is elsewhere in the Territory of Hawaii and whose capital is less than one hundred thousand dollars (\$100,000.00). Provided, however, that no bank with a paid-in capital of less than one hundred thousand dollars (\$100,000.00) shall have the right to establish branches, as provided by Section 3331 of the Revised Laws of Hawaii of 1915.

Sec. 3319. Amount, to commence business. At least seventy-five per cent. of the whole capital stock shall have been subscribed, and at least fifty per cent. of the whole capital of every such corporation shall be paid in before it shall be authorized to commence business, and if through any cause such paid in stock shall be diminished, the corporation shall, within thirty days, increase the same to the amount required by this section, and in default thereof, shall be closed and its business wound up by a receiver appointed in due process of law. Any proceedings which may be requisite for the purposes last aforesaid may be instituted by the treasurer, or by any shareholder or creditor of the corporation.

Sec. 3320. Withdrawal, prohibited. No part of the capital stock of a corporation formed under this chapter shall, during the time it continues its business, be withdrawn either in the form of dividends or otherwise.

Sec. 3321. Increase and reduction. It shall be lawful for any corporation formed under this chapter to provide in its articles of incorporation for increasing the capital from time to time by consent of two-thirds of its shareholders by a special resolution, but no such increase shall be valid until the increased capital shall be paid in and until notice thereof shall have been given to the treasurer and a certificate has been issued by him specifying the amount of such increase of capital stock and that he is satisfied that the same has been duly paid in, and such certificate shall be advertised in the like manner and for the like time as the original certificate authorizing the corporation to commence business, and such corporation may in like manner by consent of two-thirds of its shareholders reduce its capital stock to any sum not below the amount required by this chapter to authorize the formation of such cor-

poration, nor below the amount required for the payment of its outstanding obligations, nor shall such reduction be made until the amount of the proposed reduction has been sanctioned by an order of the supreme court or one of the justices thereof. When such sanction and special resolution has been obtained the capital may be reduced whether fully paid up or not.

Stock and Stockholders.

Sec. 3322. Transfer of shares. The capital stock of any corporation formed under this chapter shall be divided into shares of equal value of an amount to be declared in the articles of incorporation, and the said shares shall be assignable on the books of the corporation, in such manner as its by-laws shall prescribe; but no shareholder in any such corporation shall have the power to sell or transfer any share held in his own right so long as he shall be liable, either as principal debtor, surety, or otherwise, to the corporation for any debt which shall have become due and remain unpaid, nor in any case shall such shareholder be entitled to receive any dividend, interest or profit on such shares so long as such liabilities shall continue, but all such dividends, interest or profits shall be retained by the corporation and applied towards the discharge of such liabilities.

Sec. 3323. Stock book. The president and cashier or any corporation formed under this chapter shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the corporation, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the corporation during the regular business hours of the corporation. A copy of such list, verified by the oath of the president or cashier, shall, on the first Monday of September of each year, be filed in the office of the treasurer.

Sec. 3324. Delinquent assessments, sale for. Whenever any shareholder or his assignee shall fail to pay any installment of the capital stock required to be paid in by the directors, and no other provision is made by the articles of association, the directors may sell the stock of such delinquent shareholder, at public sale, in the city of Honolulu, after notice of such sale has been given by publication thereof in the English language

in a newspaper published in the city of Honolulu, and the excess, if any, received upon such sale after deducting the amount due thereof and the expense of such sale, shall be paid to such delinquent shareholder; Provided, that if no bidder can be found who will pay for such stock the amount due thereon to the corporation, the amount therefor paid in on such stock shall be forfeited to the corporation and such stock shall be sold as the directors may order within six months from the time of such forfeiture, and if not sold, it shall be canceled.

Sec. 3325. Loans to stockholders. The stockholders of any corporation formed under this chapter shall at no time be allowed to be collectively indebted or liable to such corporation, either as principal debtors or as sureties, or both, to an amount greater than three-fifths of the capital stock actually paid in and remaining undiminished by losses or otherwise; nor shall the directors be so indebted or liable, except to such an amount and in such manner as shall be prescribed by the by-laws of such corporation.

Sec. 3326. Liabilities of stockholders. Each stockholder of a corporation formed under this chapter is individually and personally liable for such portions of its debts and liabilities as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation, and for a like proportion only of each debt or claim against the corporation. And in the event of any judgment being obtained against the corporation, and the assets thereof being insufficient to satisfy such judgment, the court in which such judgment shall have been obtained, or any judge thereof, may order execution to issue against the stockholders severally for the proportion of the claim payable by each. Or any creditor of the corporation may institute joint or several actions against any of its stockholders for the proportion of his claim payable by each, and in such action the court shall ascertain the proportion of the claim or debt for which each defendant is liable, and a several judgment shall be rendered against each in conformity with such liability. If any stockholder pays his proportion of any debt due from the corporation, incurred while he was such stockholder, he is relieved from any further personal liability for such debt, and if an action has been brought against him upon such debt, it shall be dismissed as

to him. The liability of each stockholder is determined by the amount of stock or shares owned by him at the time the debt or liability was incurred, and such liability is not released by any subsequent transfer of the stock. The term stockholder, as used in this section, shall apply not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock, although the same appear on the books in the name of another. Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stock holder within the meaning of this section, so as to charge him with any proportion of the debts or liabilities of the corporation, but the pledgor or the person or estate represented is to be deemed the stockholder as respects such liability.

Reports and Examinations.

Sec. 3327. Semi-annual exhibit; penalty. Every corporation authorized to carry on business by virtue of the provisions of this chapter, before it commences business, and on the last Monday in January and July in every year, shall make a statement in the form prescribed by the schedule in section 3328, or as near thereto as circumstances will admit, which statement shall be verified by the oath of the president, secretary or cashier, and any person who shall swear to the said statement knowing the same or any part thereof to be false, shall be guilty of perjury, and shall be liable on conviction to all the penalties prescribed by law for such offense. A copy of such statement shall be put up in some conspicuous place in the principal office and in every branch or place where the business of the company shall be carried on, and the directors shall cause the said statement to be published in Honolulu in the English and Hawaiian languages in at least one weekly for three times and one daily newspaper for one week.

If the corporation shall make default in compliance with any of the provisions of this section, it shall be liable to a penalty not exceeding fifty dollars for every day of default, and any director or manager permitting or allowing such default shall be liable to a like penalty. All such penalties may be recovered before any district magistrate.

Sec. 3328. Schedule.

Return pursuant to section 3327.

The capital of the company is.....divided into
.....shares of each.

The number of shares issued is

Assessments to the amount of.....per share have
been made, under which the sum of.....has been
received.

The liabilities of the company on the first day of January
(or July) were

Debts owing to sundry persons by the company:

On judgment
On specialty
On notes or bills
On simple contracts
On deposits
On estimated liabilities.

The assets of the company on that day were:

Government securities (stating them)
Bills of exchange and promissory notes
Cash in hand
Other securities.

Sec. 3329. Examination by auditor. Twice at least in every
year the accounts of every corporation carrying on business
under the provisions of this chapter shall be examined by an
auditor or auditors who shall be elected annually by the cor-
poration in general meeting.

No shareholder nor officer of the corporation shall be capable
of being elected an auditor of such corporation.

An auditor on quitting office, shall be eligible for re-
election.

If any casual vacancy occurs in the office of any auditor,
the surviving auditor or auditors (if any), may act, but if
there is no surviving auditor, the directors shall forthwith call
a special general meeting of stockholders for the purpose of
supplying the vacancy or vacancies in the auditorship.

Every auditor shall have a list delivered to him of all books
kept by the corporation and shall at all reasonable times have
access to the books and accounts of the corporation; and any

auditor may, in relation to such books and accounts, examine the directors or any other officer of the corporation.

The auditor or auditors shall make a report to the stockholders on the accounts examined by him or them, and on every balance sheet laid before the corporation in general meeting during his or their tenure of office; and in every such report shall state whether in their or his opinion the balance sheet referred to in the report is a full and fair balance sheet, properly drawn up, so as to exhibit a correct view of the state of the corporation's affairs as shown by the books of the corporation, and such report shall be read before the corporation in general meeting.

The remuneration of the auditor or auditors shall be fixed by the general meeting appointing such auditor or auditors.

Sec. 3330. Balance sheet. Every balance sheet submitted to the annual or other meeting of the members of the corporation shall be signed by the auditor or auditors and by the president, secretary or manager (if any) and by the directors of the corporation or three of such directors at the least.

General Powers.

Sec. 3331. Powers. Every corporation formed under the provisions of this chapter shall in addition to the powers conferred upon bodies corporate by the provisions of chapter 181 have the following powers, subject to all the restrictions and provisions in this chapter contained, to carry on the business of a bank of discount and deposit in this Territory, to maintain branch banks for the purpose of carrying on said business of banking at such places in this Territory as the corporation may decide, the taxation district of Honolulu excepted, upon payment of a license fee as required by law, and to make loans of money on cash credit accounts, promissory notes, bills of exchange or letters of credit and other securities of the like nature. And it shall also be lawful for the corporation to deal in money, bullion, specie, precious metal and exchanges of and with all countries and in notes, bills or other securities for money and generally to transact all such other business as is or shall or may at any time hereafter be usual or lawful for establishments carrying on banking in all its branches, except as a bank of issue, to do or transact, also to take security by hypothecation of bills of lading for the payment of any bill

or bills of exchange, drawn against any shipment of any description of produce, bullion, or merchandise shipped for exportation to foreign ports or from foreign ports to any port in this Territory or from one port to another in this Territory. Also to make any advances of money to the proprietors of any sugar mill or sugar or rice plantation on condition of receiving in payment as security only for such money the crops of sugar and other produce of such proprietors, and also to acquire, own and hold such real estate as may be requisite for the convenient transaction of its business or for purposes of investment, not exceeding in value in all, as acquired from time to time, twelve and one-half per centum of the amount of its capital stock, exclusive of such real estate as may be required for the convenient use of such bank as and for the situs or place upon which its banking business shall be conducted; and further, to accept and take such real estate as may be mortgaged to it in good faith by way of security or which may be purchased by it in satisfaction of debts previously contracted, or under sales made under judgments, decrees or mortgages held by it, or to secure debts to it. Provided, that all real estate, except the banking premises, acquired or held in excess of said twelve and one-half per centum of the amount of its capital, whether under foreclosure of mortgage or by sale or purchase to secure any debts, or otherwise, shall be disposed of within five years after the same shall have been so acquired. It may hold and dispose of every kind of personal property, chattels, wares and merchandise, franchises or incorporeal rights and easements which it may have taken in good faith as security in the ordinary course of its business as the interest of the corporation may require. The corporation shall not undertake or be employed in any commercial, agricultural, manufacturing or common carrier business; and its right to hold and dispose of property acquired from securities or in payment of debts shall not be construed to authorize the bank to undertake, engage in or carry on any such business as last above mentioned.

Sec. 3332. Collateral security and purchase of shares, limitations. No corporation formed under this chapter shall take as security for any loan or discount a lien upon any part of its own capital stock and no such corporation shall be the purchaser of any part of its own capital stock nor of the capital

stock of any other corporation formed under this chapter or of any incorporated company or partnership firm, unless such purchase shall be necessary to prevent loss from a debt previously contracted in good faith, or unless in case of the forfeiture of stock for non-payment of instalments due thereon; and all stock thus purchased or acquired shall be disposed of again within six months from the date of purchase or acquisition, if such disposition can be made without loss, but in any event to be disposed of as soon thereafter as practicable without loss; provided, however, that any corporation formed under this chapter may acquire and hold a majority or any number of the shares of the capital stock of a corporation owning no other property than the situs or place and building upon or in which its banking business shall be conducted.

Sec. 3333. Limit of indebtedness. No corporation formed under this chapter shall at any time be indebted or in any way liable to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses, or otherwise, except on the following accounts, viz.:

First. On account of moneys deposited with or collected by such corporation.

Second. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such corporation, or due thereto.

Third. On account of liabilities to its stockholders for money paid in on the capital stock or for dividends and reserved profits.

Directors.

Sec. 3334. Number, qualifications, election, removal, powers. The affairs of every corporation formed under this chapter shall be managed by not less than five nor more than eleven directors, subject to the provisions herein contained. It shall be lawful for the corporation to prescribe by its articles of association the qualifications of directors, the time and method of their election, and the term for which they shall hold office, and to define their powers and authorities, to provide for their removal from office, the filling of vacancies, and all other matters in connection with their office, and with the management of the business of the corporation; provided, that the directors elected or appointed shall be residents of the Territory of Hawaii.

Sec. 3335. Oath, contents and where filed. No person shall serve as a director who does not own in his own right at least ten shares of the capital stock of said corporation; nor unless when appointed or elected he shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate or willingly permit to be violated any of the provisions of this chapter, and that he is the owner in good faith of the number of shares of stock required by this chapter standing in his name on the books of the corporation, or subscribed by him, and that the same is not in any way hypothecated or pledged as security for any loan or debt. Such oath subscribed by the person taking it and certified by the officer before whom it is taken shall be filed in the office of the treasurer.

Dissolution.

Sec. 3336. Procedure. If for any reason any corporation formed under this chapter desires to disincorporate and wind up its affairs, it shall present a petition to the treasurer, together with a certificate setting forth that at a meeting of its stockholders, called for that purpose, it was decided by a vote of three-fourths or more of the stockholders to dissolve the corporation, which certificate shall be signed by the presiding officer and secretary of such meeting. The treasurer shall enter such petition and certificate of record in his office, and after thirty days' notice by publication in Hawaiian and English, in two newspapers published in Honolulu, shall proceed to consider the same, and if satisfied that the vote certified has been duly taken and that all debts due by the said corporation have been paid and discharged, he shall declare the corporation dissolved.

Sec. 3337. Trustees, after dissolution. Unless other persons are appointed by some court of competent jurisdiction in pursuance of due process of law, the directors of the corporation at the time of the dissolution shall continue to act as trustees of the stockholders and shall have full power to settle and wind up the affairs of the corporation and distribute the proceeds among the stockholders pro rata.

CHAPTER 183.

INSURANCE COMPANIES.**Insurance Commissioner.**

Sec. 3338. Commissioner, qualifications, forms. There shall be a department charged with the execution of the laws relating to insurance, to be known as the insurance department, the chief officer of which shall be the Territorial treasurer, who shall be ex-officio insurance commissioner. Neither the insurance commissioner nor any of his deputies or clerks shall be directly or indirectly interested in any insurance corporation or insurance business except as a policy holder. All necessary forms, circulars and blanks, together with such pamphlet copies of the insurance laws as may be required for distribution to any person at any time by the provisions of this chapter, shall be furnished at the expense of the Territory.

Sec. 3339. Deputy commissioner. The insurance commissioner shall appoint a deputy, and in the absence of the commissioner or his inability from any cause to exercise the powers and discharge the duties of his office, the powers and duties of the office shall devolve on the deputy.

Sec. 3340. Report to legislature. The commissioner shall transmit to each legislature at the beginning of its regular session, or within ten days thereafter, a report containing a summary of the statements and reports made to him pursuant to the provisions of this chapter, classified, which report shall also contain:

First. A statement of all the insurance companies or corporations authorized to do business in this Territory during the biennial period ending the thirty-first day of December next preceding, with their names, locations, capital stock, paid-up capital, dates of organization and of the commencement of business in this Territory, and kinds of insurance in which they are engaged respectively.

Second. The receipts and disbursements of the insurance department during the same period.

Third. Any amendments to the insurance law which, in his judgment, are demanded for the better protection of the insured and the people.

Sec. 3341. Powers and duties. The commissioner shall see that all laws of this Territory respecting insurance companies

and corporations are faithfully executed. He shall have power to examine all books and accounts of any companies or corporations doing business in this Territory, that are organized under the laws of this Territory; to examine their officers and employees under oath; to issue subpoenas for witnesses to attend and testify before him in regard to the business of said companies and corporations, and produce for examination and investigation books, papers and documents in relation thereto. Said subpoenas must be served in the same manner as if issued from a court, and any person who shall fail, neglect or refuse to obey any such subpoena shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars.

Licenses to Insurance Companies.

Sec. 3342. Certificate of authority. The commissioner shall issue to any insurance company or corporation a certificate of authority to transact business in this Territory under the following conditions:

First—If a company or corporation organized under the laws of this Territory, when he is satisfied that the provisions of this chapter in relation to such company or corporation have been complied with;

Second—If a company or corporation organized outside of the Territory of Hawaii, when he is satisfied that the company or corporation has a paid-up and unimpaired capital or net surplus of not less than one hundred thousand dollars.

Sec. 3343. Charter, etc., to be filed. The commissioner shall cause every company or corporation before engaging in the business of insurance in this Territory to file in his office as follows:

First—If incorporated under the laws of this Territory, a copy of its articles of incorporation with any amendments made thereto;

Second—If incorporated under the laws of any other State or country, a copy of its articles of incorporation or charter, certified by the officer having the custody of such articles, which certificate shall also state that it is organized under the laws of such state or country, that it is authorized to do business therein, and the amount of the capital stock, or net surplus.

Sec. 3344. Term and revocation of certificate. Every certificate of authority granted pursuant to the provisions of this chapter to an insurance company or corporation to do business in this Territory, shall expire on the fifteenth day of April after the date of issuance.

The statements and evidence of investment required by this chapter to be filed in the office of the commissioner before a certificate of authority is granted to a company, shall be renewed from year to year, as prescribed in section 3348.

If the commissioner is not satisfied that the capital, securities and investment remain secure, and that it may be safely intrusted with a continuance of its authority to do business in this Territory, he shall revoke its certificate of authority.

Sec. 3345. Publication of revocation. When the license or authority of any insurance company or corporation doing business in this Territory has been revoked by the commissioner, the revocation shall be published four times in some newspaper of general circulation published in this Territory.

Sec. 3346. Business without certificate, unlawful. It shall be unlawful for any company or corporation to transact the business of insurance in this Territory unless it shall have complied with all of the provisions of this chapter and obtained a certificate of authority from the commissioner as in this chapter provided.

Sec. 3347. Business without certificate; penalties. If any insurance company or corporation, its agents or attorneys, shall solicit insurance or shall issue a policy without having complied with the provisions of this chapter, the company or corporation, or its agents or attorney so issuing the policy or accepting the application for the same shall be guilty of a misdemeanor and be subject to a fine of not less than one hundred dollars nor more than five hundred dollars. If any insurance company or corporation licensed to do business in this Territory shall violate any of the provisions of this chapter, the commissioner shall have power, upon notice and satisfactory proof thereof, to revoke the license of such company or corporation to do business in this Territory, and such insurance company or corporation shall not again be re-admitted to do business in this Territory until it shall have paid into the treasury of the Territory the sum of five hundred dollars as a penalty for such violation.

Agents.

Sec. 3348. License; penalty. No person shall act as agent for any insurance company or corporation in the transaction of any of its business in this Territory, or negotiate for or place risks for any such organization or in any way or manner aid such organization in effecting insurance in this Territory, unless such organization shall have fully complied with the provisions of this chapter. Every such person before commencing business, and on or before the fifteenth day of each April thereafter, shall produce a license of authority from the insurance commissioner, which license shall grant the privilege of soliciting and writing for any and all kinds of insurance in this Territory. Any person violating the provisions of this section shall forfeit to the people of the Territory the sum of five hundred dollars for the first offense, and an additional sum of one hundred dollars for each month during which any such person shall continue to act for any unauthorized insurance company or corporation, or to aid in effecting unauthorized business or insurance in this Territory.

Sec. 3349. Procuring insurance from non-licensed company; penalty. Insurance by non-licensed company, authorized when. Every person, firm or corporation who in this Territory procures, agrees to procure or assist in procuring insurance for a person, firm or corporation of this Territory, or for a foreign corporation doing business in this Territory, from any insurance company, corporation or association not licensed to do business within this Territory, shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine not to exceed five hundred dollars for each offense; **provided**, however, that the insurance commissioner may issue a license to any person residing in this Territory, subject to revocation at any time, permitting the person named therein to procure policies of insurance on risks located in this Territory in insurance companies not authorized to transact business in this Territory, and for such license the insurance commissioner shall collect for the Territory an annual fee of twenty-five dollars. Said license shall be valid until the fifteenth day of April of each year.

Before the person named in such license shall procure any insurance in such companies on any such property, he shall in every case execute and file with the Insurance Commissioner

an affidavit that he is unable to procure for a specified person, firm or corporation in a majority of the companies authorized to do business in the Territory the amount of insurance necessary to protect said property.

Every person so licensed shall keep a separate account of the business done under said license, open at all times to the inspection of the Insurance Commissioner, and shall file a certified copy thereof forthwith with the Insurance Commissioner, showing the exact amount and character of such insurance placed for any person, firm or corporation, the gross premiums charged thereon, the companies in which the same is placed, the dates of the policies and the terms thereof, the location of the insured property and also a report in the same detail of all such policies cancelled and the gross return thereon.

Before receiving such license, the person licensed shall execute and deliver to the Insurance Commissioner a bond in the penal sum of Two Thousand Dollars, with such sureties as the commissioner shall approve, conditioned that the licensee will faithfully comply with all the requirements of this section, and will file with the Insurance Commissioner on or before June first of each year, a sworn statement of the gross premiums charged for insurance procured or placed, and the gross return premiums on such insurance cancelled under such license during the year ending on the thirty-first day of December last preceding, and will pay to the Insurance Commissioner of the Territory of Hawaii, for the use and benefit of said Territory, an amount equal to four per cent. of such gross premiums, less such return premiums so reported, and in default of the payment of any sum imposed by this section, the said Insurance Commissioner may sue for same in any court of record in this Territory.

Any person, firm, company or corporation for whom such insurance as herein specified shall have been effected, whenever required by the Insurance Commissioner so to do, shall produce for examination by him the policy or policies issued for such insurance, and disclose to him the true amount of the gross premiums agreed to be paid therefor, and upon refusal so to do shall forfeit to the Territory of Hawaii for each such refusal the sum of Two Hundred Dollars, to be recovered in a civil action. All policies and insurance contracts issued without full compliance, by all parties concerned, with the require-

ments of this section, and of the general insurance laws of the Territory, are null and void.

Sec. 3349A. Statement of insurance policies from unlicensed company. Fee, tax and penalty. All persons, individuals, firms, companies or corporations obtaining insurance on property situate in the Territory owned by individuals or firms resident in the Territory or corporations incorporated under the laws of this Territory against fire, from companies, associations, firms or corporations not authorized to transact business in this Territory, shall file with the insurance commissioner of the Territory a statement or declaration setting forth the name of the company, number of policy, amount of insurance, rate, premium and description of property, shall be required to pay a tax thereon of five per centum of the premium paid on such policies to the said insurance commissioner; and shall further pay a fee to said commissioner of one dollar (\$1.00) on each policy for making a record of the said statement or declaration, which record shall be kept for the private information of the insurance department of this Territory, and shall not be a public record.

Any person, individual or corporation violating any of the terms of the above section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or imprisonment in jail for a period of not less than one month nor more than six months, in the discretion of the court.

Sec. 3350. Resident agent shall be appointed; penalty. No insurance company or corporation licensed to do business in this Territory shall accept any application for insurance, nor shall it write, issue, or deliver any policy of insurance covering a risk located within this Territory except through a duly appointed agent of such insurance company or corporation, who is a bona fide resident, firm or corporation of this Territory, resident herein, and licensed as agent of such insurance company or corporation by the commissioner to write and solicit insurance for such insurance company, corporation or association. The license of any such insurance company or corporation which shall violate this section shall be revoked by the commissioner, and such organization shall not be again licensed to do business in this Territory until it shall have paid

into the Treasury of the Territory the sum of five hundred dollars as a license fee. This section does not apply to the acceptance or effecting of reinsurance.

Sec. 3351. Power of attorney, service. No insurance company or corporation organized outside of this Territory shall be permitted to do business in this Territory until such company shall have filed with the commissioner a power of attorney, which shall authorize a resident of this Territory to make and accept service in any proceeding in any court in this Territory or of the United States herein. If any attorney of any insurance organization, appointed under the provisions of this chapter, shall remove from the Territory, or become disqualified in any manner from accepting service, and if any resident of this Territory shall have any claim by virtue of any insurance policy issued by any company or organization not represented by attorney in this Territory, valid service may be made on such company or organization by service upon the Insurance Commissioner; **provided**, that in such case the commissioner shall immediately notify such company by inclosing a copy of the same by mail, postpaid; **and provided further**, that in such case no proceeding shall be had within sixty days after such service on the commissioner.

Capital Stock.

Sec. 3352. Amount. Any company or corporation organized under the laws of this Territory prior to October 1, 1903, or under the provisions of this chapter, for the purpose of engaging in insurance, must have a subscribed capital of not less than one hundred thousand dollars, of which fifty thousand dollars must be paid in in cash before the issuance by such organization of any policy of insurance under the provisions of this chapter.

Sec. 3353. Dividends; reserve. It shall be unlawful for the directors, trustees or managers of any insurance company or corporation organized under the laws of this Territory to make any dividends except from the surplus profits arising from their business, and in estimating such profits there shall be reserved therefrom a sum equal to fifty per cent. of the amount received on premiums on all unexpired risks and policies, which amount so reserved is hereby declared to be unearned premiums; and there shall also be reserved all sums

due the company or corporation on bonds, mortgages, stocks and book accounts, of which no part of the money or interest has been paid during the year preceding such estimate of profits, and upon which suit for foreclosure or collection has not been commenced, or judgment obtained thereon, which shall have remained more than two years unsatisfied, and upon which interest shall not have been paid.

Sec. 3354. Reduction and distribution of assets, procedure.

When the capital stock of any insurance company or corporation organized under the laws of this Territory shall be impaired, it may reduce it as provided herein and the par value of its shares to such an amount as shall be justified by its assets; but no part of its assets shall be distributed to its stockholders and no reduction shall be made except upon the vote of the stockholders, approved by at least two-thirds of the board of directors, and certified under the corporate seal by the secretary, a copy of which shall be filed with the Insurance Commissioner. The directors, after such reduction of capital, may require each stockholder to surrender his certificate and in lieu thereof may issue a new certificate for such number of shares as he shall be entitled to.

Such company, after its capital shall be so reduced, may increase its capital stock to any amount not exceeding the amount authorized by its charter. During the time that the paid-up capital of such company or corporation remains impaired twenty-five per cent. or more, or is less than one hundred thousand dollars, such company shall cease issuing policies or effecting insurances.

Sec. 3355. Increase, procedure. Any insurance company or corporation may increase the amount of its capital stock, after giving notice once a week for four consecutive weeks in any newspaper having a general circulation, published in the Territory of Hawaii, of such intention, and by filing with the Insurance Commissioner a copy of such advertisement subscribed and sworn to by the publisher or manager of said paper as having been so advertised, together with a declaration under its corporate seal, signed by its president and two-thirds of its board of directors, and by the stockholders representing three-fourths of its capital stock, of their desire so to increase the capital; **provided** that said increase in capital stock shall be fully paid in legal tender money of the United States.

Sec. 3356. Annual examination by commissioner. It shall be the duty of the Insurance Commissioner to make a detailed examination of all companies or corporations organized under the laws of this Territory for the business of insurance at least once a year. Upon such examination he shall ascertain if the laws relating to payment of capital, investment of moneys and methods of doing business are complied with. If, upon such examination, he shall find that the capital stock of such company or corporation is impaired, he shall order such impairment made good or the capital reduced the amount of such impairment; **provided**, that no reduction shall be made which will reduce the capital of any organization to a less amount than is required by this chapter, and if the organization so required to make good or reduce its capital stock refuses or neglects within sixty days to do so, the commissioner shall revoke its license to do business in this Territory, and shall apply to any judge of a court having jurisdiction for an order upon said company or corporation to show cause why its charter should not be revoked and a receiver appointed to wind up its affairs.

Sec. 3357. Foreign companies with impaired capital; penalty. If the Insurance Commissioner has reason to believe that any insurance company or corporation organized outside of this Territory has less than the paid-up unimpaired cash capital or net surplus required by this chapter, it shall be the duty of the commissioner to make such investigation or require such proof as shall be satisfactory to him concerning the financial condition of such organization; **provided**, however, the certificate of the insurance officer of any state having an insurance department that such organization has the required paid-up and unimpaired cash capital or net surplus shall be accepted by the commissioner as satisfactory. If such organization does not, within sixty days after demand of the commissioner, produce such certificate, the commissioner shall revoke its certificate of authority to do business in this Territory, and not reissue the same until said certificate is produced. If any agent of the insurance company or corporation upon which such demand is made, shall solicit and agree to issue and deliver, or shall issue or deliver, any policy of the delinquent organization covering any property in this Territory, while such certificate of authority is withdrawn or withheld, he shall be deemed guilty of a misdemeanor, and

on conviction thereof, shall be subject to a fine of ten dollars for the first, and fifty dollars for each subsequent offense.

Statements.

Sec. 3358. Annual statement. Every insurance company doing business in this Territory shall:

First. On or before the 15th day of April of each year file a statement with the commissioner, verified by the oath of its principal executive officer residing within the Territory, or by the principal executive officer of the company, which statement shall show the total business done in this Territory during the year ending the 31st day of December next preceding, and shall contain a complete list of agents in this Territory;

Second. Make and file with the commissioner before the 15th day of April of each year a statement, verified by the oath of the president or principal officer of such company, showing the condition of such company on the 31st day of December next preceding, and such statement shall show:

1. The amount of the capital stock of the company.
2. The property or assets held by the same.
3. The liabilities of the company, which must in the case of fire insurance companies include the re-insurance reserve estimated at fifty per cent. of the outstanding premiums, and which in the case of life insurance companies must be computed on the basis of either the American experience or the combined experience table of mortality, with interest at the rate of not less than four per cent. per annum.
4. The income of the company during the preceding year.
5. The total amount of risk outstanding on the 31st day of December next preceding.

Sec. 3359. Of foreign organizations. Every organization foreign to this Territory, its agents and officers, shall always be required to make the same statements and answer the same inquiries to the Insurance Commissioner and in case of default be subject to the same penalties and liabilities as domestic organizations doing the same kind of business, or any of the agents or officers thereof, are, or may be liable to, under the laws of this Territory or the regulations of the insurance department.

Fees and Taxes.

Sec. 3360. Fees. The commissioner shall require payment in advance of the following fees:

For filing articles of incorporation, or certified copies of articles, by-laws, or other certificates required to be filed in his office	\$25.00
For issuing certificates of authority.....	10.00
For each renewal certificate of authority.....	10.00
For filing the annual statement of condition.....	10.00
For filing each annual statement of business transacted in the Territory	10.00
For filing any other paper	1.00
For furnishing copies of papers filed in his office, per folio25
For certifying copies, each	1.00
For Agent's license for each company represented....	2.00

All moneys collected under this chapter shall be paid into the treasury of the Territory as a government realization.

Sec. 3361. Taxes; penalty. All insurance companies or corporations doing business in this Territory must file with the commissioner annually, on or before the first day of June, in each year hereafter, a statement, under oath, setting forth the amount of gross premiums received by said companies or corporations, during the year ending December 31, next preceding, from all risks located in, and all business done, within this Territory. All such insurance companies or corporations, except life insurance companies, shall pay to the Treasurer, through the Insurance Commissioner, a tax of two per cent. on the gross premiums received from all risks located in, and from all business done within this Territory, during the year ending on the preceding 31st day of December, less return premiums, re-insurance in companies or corporations authorized to do business in this Territory when such re-insurance is placed through or with local agents; and all life insurance companies shall pay to the Treasurer, through the Insurance Commissioner, a tax of two per cent. on the gross premiums received from all business done within this Territory, during the year ending on the preceding 31st day of December, less return premiums, re-insurance in companies or corporations authorized to do business in this Territory, when such re-insurance is placed through or with local agents, and operat-

ing and business expenses, which taxes, when paid shall be in settlement of all demands of any taxes or licenses or fees of every character imposed by the laws of the Territory, excepting property taxes, and the fees set forth in Section 3360, for conducting said business of insurance in said Territory. Said taxes shall be due and payable on the first day of July, succeeding the filing of the statement provided for in this chapter. Any organization failing or refusing to render such statement and to pay the required taxes above stated, for more than thirty days after the time so specified, shall be liable to a penalty of \$25.00 for each day of delinquency, and the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of the Territory, in any court of competent jurisdiction, and the commissioner shall revoke and annul the certificate of authority of such delinquent organization until such taxes and fine, should any be imposed, are fully paid.

Return of Unearned Premiums.

Sec. 3362. Insurance on building. In the event of the total destruction of any insured building, on which the amount of the appraised or agreed loss shall be less than the total amount issued thereon, the fire insurance company or companies shall return to the insured the unearned premiums on the policies involved in the loss for the excess of insurance over the appraised or agreed loss, to be paid at the same time and in the same manner as the loss shall be paid.

CHAPTER 184.

TRUST COMPANIES.

Sec. 3363. Trust company defined. The term "trust company" as used in this chapter, means any corporation or joint stock company organized, under the general laws of the Territory of Hawaii, which has obtained from the treasurer of the Territory a certificate that it is qualified to act as a trust company under section 3364.

Sec. 3364. Conditions precedent to doing business. No corporation or joint stock company shall do business as a trust company, except on the following conditions:

- (a) Its corporate name shall contain the word "trust."
- (b) It shall be organized for the purpose of doing business as a trust company, and such object shall be expressed in its charter or articles of association.
- (c) Its capital stock shall be at least one hundred thousand dollars, fully subscribed, with at least fifty thousand dollars paid in.
- (d) Its paid in capital shall be represented by cash or by securities of a market value equal to the amount at which such securities are entered as an asset on the books of the company.

The treasurer of the Territory shall upon any corporation or joint stock company complying with the requirements of this section, grant it a certificate that it is qualified to act as a trust company.

Sec. 3365. No corporations except trust companies to act as executors, etc. No corporation or joint stock company, except trust companies doing business under the provisions of this chapter, shall act as executor, administrator, guardian, assignee or receiver, or shall engage in the business of acting as trustee for the management and investment of funds of other persons, or shall continue to do business with the word "trust" or "trustee" in its corporate name, under penalty of ten dollars for every day that it shall so act or engage in business, which penalty may be recovered by the treasurer of the Territory, in a civil action before any court of competent jurisdiction.

Sec. 3366. Powers of trust companies. Every trust company shall have power, in addition to the general powers conferred by law upon corporations and joint stock companies: (1) To take, receive and hold, and repay, reconvey and dispose of any effects and property, both real and personal, which may be granted, devised, bequeathed, committed, transferred or conveyed to it, upon any trust or trusts whatsoever, at any time or times by any person or persons, including married women and minors, body or bodies corporate, or by any state, territorial, federal or foreign court or judge, and to administer, fulfill and discharge the duties of such trust or trusts for

such remuneration as may be agreed upon or provided by law; (2) To act generally as agents or attorneys in the transaction of business or management of estates, the collection of rents, interest, dividends, mortgages, bonds, bills, notes and securities for money; (3) To act as agent for the purpose of buying, selling, issuing, negotiating, registering, transferring or countersigning the certificates of stock, bonds or other obligations of any corporation, association or municipality, and to manage any sinking fund therefor, on such terms as may be agreed upon; (4) To accept and to execute the offices of executor, administrator, trustee, receiver, assignee or guardian, whether by appointment by will, by a court or judge, or otherwise; (5) To loan money upon real estate and collateral security, and to execute and issue its notes and debentures, payable at a future date, and to pledge its mortgages on real estate and other securities as security therefor; (6) To take and receive from any individual or corporation, on deposit for safe keeping and storage, gold and silver plate, jewelry, money, stocks, securities and other valuables and personal property; (7) To rent out the use of safes or other receptacles upon such terms and for such compensation as may be agreed upon; (8) To lease, purchase, hold and convey all such personal estate as may be necessary to carry on its business or that it may be necessary to acquire in the enforcement or settlement of any claims or demands arising out of its business transactions; (9) To execute and issue in the transaction of its business all necessary receipts, certificates, papers and contracts, which shall be signed by such person or persons as may be designated in the by-laws; (10) To lease, purchase, hold and convey real estate as its corporate property; (11) To purchase, hold and sell the stocks and bonds of other corporations; (12) To act as agents of insurance companies and surety companies; (13) To do a general trust and security business; and (14) To transact as agents any other business or undertaking, trust, mercantile or otherwise which may be necessary, useful or convenient to the main purpose of the corporation. Nothing herein contained shall be construed as giving the right to issue bills to circulate as money or to discount commercial paper, or to do a general banking business, or to do a savings bank business..

Sec. 3367. Bond under fiduciary appointment. Any circuit judge shall have power to require of any trust company which

has been appointed in any fiduciary capacity, by any court or judge of the Territory of Hawaii, a continuing bond in such amount, not exceeding fifty thousand dollars, as such judge may direct, conditioned for the faithful performance of all duties arising from any such fiduciary appointment made or to be made by any territorial court or judge, and no other or further bond shall be required upon any such appointment, unless the value of a single estate is more than fifty thousand dollars under its management.

Sec. 3368. Trust company's liability for investments. All investments of money received by any trust company upon trust account, or in any fiduciary capacity, shall be at its sole risk, and for all losses of such money the capital stock, property and effects of the corporation shall be absolutely liable, unless the investments are such as the courts recognize as proper when made by an individual acting as trustee or in like fiduciary capacity; or are such as are permitted in and by the instrument of words creating or defining the trust.

Sec. 3369. Semi-annual statements. Every trust company, before it commences business, and during the months of January and July in every year, shall make a statement as of January 1st and July 1st of said year, in the form prescribed by the schedule annexed to this chapter, or as near thereto as circumstances will admit, which statement shall be verified by the oath of the president, treasurer, secretary or cashier. A copy of such statement shall be put up in some conspicuous place in the principal office, and shall be published by said company in some newspaper of general circulation, as may be approved by the treasurer, at least once a week for three weeks, beginning in said month of January and July. If the company shall make default in compliance with any of the provisions of this section it shall be liable to penalty of ten dollars for every day of default, which may be recovered by the treasurer of the Territory in a civil action before any court of competent jurisdiction.

Sec. 3370. Supervision by Territorial treasurer or auditor. Every trust company shall be subject to such supervision by the treasurer of the Territory or auditor of the Territory as is or may be from time to time prescribed by law in the case of banking companies.

Sec. 3371. Insolvency, impaired capital. On becoming satisfied that any trust company has become insolvent, or that its capital has become impaired, or that it has violated the provisions of this chapter, or that any execution issued against said company has been returned unsatisfied in whole or in part, the treasurer of the Territory shall forthwith apply to a court of competent jurisdiction for the winding up of such company, and such court, upon proof that such company is liable to winding up under the provisions of this section, shall appoint a receiver for such company, who, under the direction of such court, shall take possession of the books, records and assets of every description of such company, collect all debts, dues and claims belonging to it, sell or compound all bad or doubtful debts, and sell all the real and personal property of such company on such terms as the court shall direct, and shall, if necessary to pay the debts of such company, enforce all individual liabilities of the stockholders, and in general exercise all the powers of a receiver according to law.

Sec. 3372. Winding up; disposal of assets. Upon such winding up, the assets of the company shall be used in the following manner, that is to say:

1st. To the cost and expense of such winding up, including the receiver's compensation.

2nd. To the payment of all obligations incurred by such corporation by reason of acting in a fiduciary capacity by appointment of any court.

3rd. To the payment of all other fiduciary obligations of said corporation, including moneys received on trust account and obligations incurred while acting in a fiduciary capacity by appointment of individuals under wills, trust deeds, or otherwise.

4th. To the payment of bonds, debentures, or other secured debts of the corporation.

5th. To the payment of all other debts or obligations of the corporation.

6th. To the distribution among the stockholders, pro rata, of any remaining assets.

Sec.. 3373. Schedule.**Assets.**

Cash on hand and in banks,
 Bonds,
 Stocks and other investments,
 Mortgages, secured by real estate,
 Loans, demand and time,
 Furniture and fixtures,
 Real estate,
 Accrued estate,
 Accrued interest, receivable,
 Assets other than those specified above.
 Total

Liabilities.

Capital,
 Surplus,
 Undivided profits,
 Trust accounts,
 Bills payable,
 Accrued interest, payable,
 Liabilities other than those specified above.
 Total

CHAPTER 185.**FIDUCIARY COMPANIES.**

Sec. 3374. Fiduciary company defined. The words "fiduciary company" as used in this chapter shall be construed to mean and include every bank, other than a national bank; every trust or fiduciary company; every mortgage, loan, building, investment, realty and maturity company; every burial association; every mutual benefit society; and every company carrying on a financial or fiduciary business in the Territory of Hawaii, whether it be a local or a foreign corporation, or a copartnership or any unincorporated company, irrespective of the name by which such company is designated.

Sec. 3375. Semi-annual reports. Every such fiduciary company shall make to the treasurer of the Territory two reports during each year, to wit: as of June 30th and December 31st; such reports shall be made within thirty days after said dates, and shall show in such form, under such heads and in such detail as said treasurer shall prescribe, the resources and liabilities of such fiduciary companies at the close of business on said dates, the receipts and expenditures and a computation of the loss or gain of such companies during the six months next preceding the date as of which such reports are made; and each of such reports shall be verified by the oath of the cashier, treasurer or manager of the company making the same.

Sec. 3376. Publication of reports. Every such fiduciary company, whenever notified in writing by the treasurer of the Territory so to do, shall publish in the English language within seven days after such notification, any report of its affairs made under the requirements of section 3375 in some newspaper suitable for the publication of legal notices, and published in the island where such company has its principal place of business; or if there is no such newspaper published in such island, then in some newspaper published in Honolulu.

Sec. 3377. Failure to comply with statute; penalty. Any fiduciary company, and any executive or managing officer thereof, neglecting or refusing to carry out or comply with any of the provisions of this chapter, shall be notified in writing by the treasurer of such neglect or refusal; and if such neglect or refusal shall continue for seven days after such notification, said company and said officers shall on conviction thereof be fined in a sum not exceeding one thousand dollars; and every day's neglect or refusal after the expiration of seven days as aforesaid shall be a separate offense.

CHAPTER 186.

FOREIGN CORPORATIONS.

Sec. 3378. Must file papers and bond. Every corporation or incorporated company formed or organized under the laws of any state of the United States or of any foreign state or coun-

try, which shall undertake to do or carry on any business in this Territory or to take, hold, sell, demise or convey real estate or any other property therein, shall file in the office of the treasurer of the Territory:

1. A certified copy of the charter or act of incorporation of such corporation or company;

2. The names of the officers thereof;

3. A certified copy of the by-laws of such corporation or company;

4. The name and business address of some person residing within the Territory upon whom legal notice and process from the courts of this Territory, or notices from officials of the Territory, may be served;

5. A good and sufficient bond or bonds with one or more sureties to be approved by the treasurer of the Territory of Hawaii, and running to said treasurer and his successors in office, in a sum or sums to be fixed by the treasurer in his sound discretion, but in the aggregate sum of not less than one thousand dollars (\$1,000.00) nor more than ten per cent. of the capital stock of said corporation or company if its capital stock shall exceed the sum of ten thousand dollars (\$10,000.00), but in no case, however, shall such bond exceed the sum of fifty thousand dollars (\$50,000.00) with condition that the surety or sureties on such bond or bonds shall be answerable in the amount of said bond or bonds for all judgments, decrees, or orders given, made, or rendered against the principal on said bond or bonds by any of the courts of this Territory for the payment of money. Provided, however, that, if in the judgment of the treasurer of the Territory, any such corporation or company shall own and hold property within the Territory of Hawaii in value sufficient to equal the amount of any bond or bonds which said treasurer of the Territory would otherwise require from such corporation or company as provided herein, then no bond shall be required of any such corporation or company.

6. In case of any breach of the condition of any bond or bonds given under the provisions of this Act, the treasurer may, and upon demand and the receipt of satisfactory assurance for the payment of costs shall enforce said bond either in his own name or in the name of any person as obligee therein by appropriate proceedings in any court of competent jurisdiction.

tion for the use and benefit of any person injured by such breach.

Sec. 3379. Powers and liabilities. Every such corporation or company, on complying with the provisions of Section 3378 and paying to the Treasurer, a fee of Fifty Dollars, shall, subject to the provisions of Section 3380 and 3384, have the same powers and privileges, and be subject to the same disabilities as are by law conferred on corporations constituted under the laws of this Territory, and shall, for the purposes for which they shall be constituted, have full power to hold, take and convey by way of sale, mortgage or otherwise, real, personal and mixed estate in this Territory. Provided always, that the purposes for which such corporation or company shall be constituted shall not be repugnant to or in conflict with any law of this Territory. Provided, further, that nothing herein contained, shall be construed to give any such corporation or company any of the special powers conferred by law upon railroad or banking corporations constituted under the laws of this Territory.

Sec. 3380. Annual license. No foreign corporation, except foreign insurance companies, which does not invest and use all its capital in this Territory, shall have an office or offices in this Territory for the use of its officers, stockholders, agents, or employees, nor shall do any business of any nature whatsoever in this Territory, unless it shall first have obtained from the Treasurer an annual license to do so; and for said license, every such corporation shall pay into the Treasury of the Territory, for the use of the Territory, annually, the sum of One Hundred Dollars, and the Treasurer shall not issue a license to any corporation until said license fee shall have been paid.

The Treasurer is hereby authorized to settle and have collected an account against any company violating the provisions of this Section for the amount of such license fee, together with a penalty of fifty per centum for failure to pay the same. Provided, that no license shall be necessary for any corporation engaged solely in the business of foreign or interstate commerce, or while solely employed by the Government of the United States.

Sec. 3381. Penalty for non-compliance with statutes. Every person acting as agent, or assuming to act as agent of any foreign corporation which has failed to comply with any of the

statutes regarding foreign corporations, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than One Hundred Dollars, nor more than Five Hundred Dollars; or by imprisonment for not more than six months, or by both such fine and imprisonment.

Every foreign corporation failing to comply with any of the statutes regarding foreign corporations shall be deemed guilty of a misdemeanor, and punished by a fine of not less than One Hundred Dollars, nor more than Five Hundred Dollars; which said fine shall be in addition to all fees, licenses and penalties in this Chapter provided; and shall be denied the benefit of the laws of the Territory, particularly the statute limiting the time for commencement of civil actions or of criminal actions, and shall not be entitled to sue, plead or appear, except as herein below provided in any court of this Territory, for any cause of action whatever, while such neglect or refusal continues; provided, however, that the court may grant, in its discretion, additional time within which to comply with the statutes, when it shall appear that said corporation has a meritorious defence to any action brought against it.

Sec. 3382. Annual Exhibit. Every such corporation or company carrying on business in the Territory of Hawaii, shall on the first day of July of each year, file with the Treasurer, a statement of all matters which are or may be required by law to be filed by Hawaiian corporations.

Sec. 3383. Examination by Treasurer. The said Treasurer shall have power at any time either by himself or by one or more commissioners appointed by him, to call for the production of the books and papers of any foreign corporation doing business in the Territory of Hawaii, and to examine its officers, members and others touching its affairs, under oath; and the said Treasurer may, in his discretion, lay before the Governor and also publish the said annual reports and statement of such examination.

Sec. 3384. Procedure to compel examination. In case any such corporation shall refuse or fail to present such annual exhibit of its affairs to the Treasurer, or to produce its books and papers upon the request of the Treasurer, or of the commissioner or commissioners appointed by him, or in case any of the officers or members of such corporation shall refuse to be examined on oath touching the affairs of the same, the

Treasurer or the commissioner or commissioners may apply to a circuit judge at chambers for an order to compel the production of such books and papers, or examination of such officers and members thereof, and the judge may enforce obedience to such order as in the case of its ordinary decrees and orders; and such corporation shall be denied the benefit of the laws of the Territory, particularly the statute limiting the time for the commencement of civil actions, and shall not be entitled to sue in any court of the Territory for any cause of action whatever, while such neglect or refusal continues.

CHAPTER 187.

SERVICE OF PROCESS ON CORPORATIONS.

Sec. 3385. Manner of service. Service of any notice or process authorized by law issued against any corporation, whether domestic or foreign, by any magistrate, court, judicial or administrative officer or board, may be made in the manner provided by law upon any officer or director of such corporation who shall be found within the jurisdiction of such magistrate, court, officer or board, and in default of finding such officer or director, upon the manager or superintendent of such corporation or any person who shall be found in charge of the property, business, or office of such corporation, within such jurisdiction.

Provided that if no officer, director, manager, superintendent or other person in charge of the property, business or office of such corporation can be found within the Territory, and in case such corporation, if a foreign corporation, shall have neglected to file with the officer specified in section 3378 the name of a person upon whom legal notice and process from the courts of the Territory may be served, and likewise in the event that the person so named shall not be found within the Territory, such service may be made upon such corporation by filing with the treasurer of the Territory, or in his absence, with the registrar of public accounts, a copy of such notice, or process, certified to be such under the seal of any court of record, or by the magistrate, or by the chairman, or president of such board, or by the officer issuing the same, and such

filing shall be deemed service upon such corporation thirty days after such filing, and shall authorize such magistrate, board or officer to proceed in all respects as in the case of service personally made upon an individual.

Sec. 3386. Not exclusive of 3378. Nothing in this chapter shall be construed to prevent service upon foreign corporations in the manner contemplated by section 3378.

CHAPTER 188.

SPECIAL PARTNERSHIPS.

Formation.

Sec. 3387. Between persons. A partnership may be formed between two or more persons for the transaction of any lawful business. A special partnership may be formed between one or more persons, called general partners, and one or more persons called special partners, for the transaction of any business.

Sec. 3388. Between corporations. Any two or more corporations organized and existing under and in conformity with the laws of the Territory of Hawaii, may enter into partnership with each other, in conformity with this chapter for the furtherance of their common objects, authorized in their charter or articles of association, and the laws applicable thereto.

Sec. 3389. Authority of corporation officers. All acts to be done and proceedings required or made necessary by this chapter in the formation of special partnerships, shall be done and performed by the officers of the respective corporations entering into such special partnerships.

Sec. 3390. Certificate, contents. Persons desirous of forming a special partnership must severally sign a certificate stating:

First. The name under which the partnership is to be conducted.

Second. The general nature of the business intended to be transacted, and the place or places where such business is to

be transacted; giving, if possible, the street and number on the street. .

Third. The names of all the partners and the residence of each; specifying which are general and which are special partners.

Fourth. The amount of capital which each special partner has contributed to the common stock.

Fifth. The periods at which such partnership will begin and end.

Sec. 3391. Certificate, acknowledged and recorded. False statement. Certificates under the last section must be acknowledged by all the partners before some officer authorized to take acknowledgments of deeds, and filed in the office of the treasurer, who shall preserve the same and keep a record of the same, which shall be duly indexed. Such certificate, record and index shall, during all business hours, be open to the inspection of the public free of charge. A fee of fifty cents shall be charged for each name signed to any such certificate. If any false statement is made in any such certificate, all the persons interested in the partnership shall be liable, as general partners, for all the liabilities thereof.

Sec. 3392. Affidavit as to sums contributed. An affidavit of each of the partners, stating that the sums specified on the certificate of the partnership as having been contributed by each of the special partners have been actually paid in lawful money, must be filed with the certificate above mentioned.

Sec. 3393. No partnership until compliance. No special partnership is formed until the provisions of the preceding three sections are complied with.

Sec. 3394. Certificate to be published. The certificate mentioned in section 3390, or a statement of its substance, except the amount of capital contributed by any special partner, must be published in at least two newspapers printed in the English language, in Honolulu, once a week for four successive weeks, beginning with one week from the time of filing the certificate. In case such publication is not so made the partnership must be deemed general.

Sec. 3395. Affidavit of publication. An affidavit of the making of the publication mentioned in the preceding section,

made by the printer or publisher of the newspaper in which such publication is made, may be filed with the original certificate above mentioned, and shall be prima facie evidence of the facts therein stated.

Sec. 3396. General partners may sue and be sued. In all matters relating to a special partnership its general partners may sue and be sued alone, in the same manner as if there were no special partners.

Powers, Rights and Duties of Partners.

Sec. 3397. Only general partners act. The general partners only shall have authority to transact the business of a special partnership.

Sec. 3398. Special partners may advise. A special partner may at all times investigate the partnership affairs and advise his partners or their agents as to their management.

Sec. 3399. May loan money. Insolvency. A special partner may lend money to the partnership or advance money for it, or to it, and take from it security therefor, and as to such secured loans or advances has the same rights as any other creditor, but in case of the insolvency of the partnership all other claim which he may have against it must be postponed until all other creditors are satisfied..

Sec. 3400. Receive interest and profits. A special partner may receive such lawful interest and such proportion of profits as may be agreed upon, if not paid out or the capital invested in the partnership by him or some other special partner, and is not bound to refund the same to meet subsequent losses.

Sec. 3401. May not withdraw capital. No special partner, under any pretense, may withdraw any part of the capital invested by him in the partnership during its continuance.

Sec. 3402. Result of withdrawing capital. If a special partner withdraws capital from the firm, contrary to the provisions of sections 3400, 3401, he thereby becomes a general partner.

Liability of Partners.

Sec. 3403. Of general partners. The general partners in a special partnership are liable, to the same extent, as partners in a general partnership.

Sec. 3404. Of special partners. The contribution of a special partner to the capital of the firm, and the increase thereof, is liable for its debts; but he is not otherwise liable therefor, except as follows:

(1) If he has wilfully made or permitted a false or materially defective statement in the certificate of the partnership, the affidavit filed therewith, or the published announcement thereof, he is liable as a general partner to all creditors of the firm; or,

(2) If he has wilfully interfered with the business of the firm, except as permitted hereinabove, he is liable in like manner; or,

(3) If he has wilfully joined in or assented to an act contrary to any of the provisions of sections 3397-3402, he is liable in like manner.

Sec. 3405. For unintentional act. When a special partner has, unintentionally, done any of the acts mentioned in the last section, he is liable, as a general partner, to any creditor of the firm who has been actually misled thereby to his prejudice.

Alteration and Dissolution.

Sec. 3406. When special becomes general. A special partnership becomes general if, within ten days after any partner withdraws from it, or any partner is received into it, or a change is made in the nature of its business or in its name, a certificate of such fact, duly verified and signed by one or more of the partners, is not filed with the treasurer and notice thereof published as is provided in section 3394 for the publication of the certificate.

Sec. 3407. New special partners admitted how. New special partners may be admitted into a special partnership upon a certificate and affidavit being filed and recorded according to the provisions of sections 3390-3392.

Sec. 3408. Dissolution. A special partnership is subject to dissolution in the same manner as a general partnership, except that no dissolution, by the act of the partners, is complete until a notice thereof has been filed and recorded in the office of the treasurer and published, at least once in each week, for four successive weeks in at least two newspapers in Honolulu in the English language.

Sec. 3409. Name of special partner how used. The name of a special partner must not be used in the firm name of the partnership, unless it be accompanied with the word "limited."

CHAPTER 189.

REGISTRATION OF COPARTNERSHIPS.

Sec. 3410. Statement of formation. Whenever any two or more persons shall carry on business in this Territory in copartnership, it shall be incumbent on such persons to file in the office of the treasurer a statement of:

1. The names and residences of each of the members of such copartnership;
2. The nature of the business of such copartnership;
3. The firm name of the copartnership;
4. The place or places of business of the copartnership.

Such statement shall be acknowledged by each of the partners before a notary public in the manner provided by law for the acknowledgment of deeds.

Sec. 3411. Statement of changes or dissolution. Whenever any change shall take place in the constitution of any such firm by the death or withdrawal of any member thereof, or by the addition of any member thereto, or by the dissolution thereof, a statement of such change or dissolution shall also be filed in the said office of the treasurer within one month from such change, death or dissolution, as the case may be.

Sec. 3412. Statements to be published. All such statements as are required to be made in the preceding sections shall also be published by the members of each copartnership at least twice in the Hawaiian and English languages, in any newspaper published in each county and city and county where said copartnership has a place for the transaction of business.

Sec. 3413. Record of statements. The treasurer shall cause a book to be kept in his office, in which shall be recorded the several particulars in this chapter before required to be filed

in his office; and which book shall be open for public inspection on payment of a fee of twenty-five cents for each inspection.

Sec. 3414. Fee for recording. There shall be paid to the treasurer a fee of fifty cents for each name so recorded as aforesaid.

Sec. 3415. Penalty for non-compliance. The members of every copartnership who shall neglect or fail to comply with the provisions of this chapter, shall severally and individually be liable for all the debts and liabilities of such copartnership and may be severally sued therefor, without the necessity of joining the other members of the copartnership in any action or suit, and shall also severally be liable upon conviction to a penalty not exceeding five dollars for each and every day while such default shall continue.

Sec. 3416. Not applicable to corporations. Nothing in this chapter contained shall be deemed or construed to apply to corporations or incorporated companies.

Sec. 3417. Fees, government realizations. All fees received by virtue of this chapter shall be accounted for as part of the revenue of the Territory.

ACT 124

AN ACT

TO PUNISH THE MISREPRESENTATION OF MERCHANDISE, SHARES OF STOCK, BONDS, MORTGAGES, NOTES, COPARTNERSHIP UNITS AND SERVICE.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. If any person, firm, corporation or association, or any employee thereof, in a newspaper, circular, form letter or other publication published, distributed or circulated in this Territory, or on any bill board, sign, card, label or other advertising medium displayed on, in or near a street, electric car, automobile, auto-truck, wagon, carriage, motorevele, bicycle, show-case, store or other place in this Territory, knowingly

makes or disseminates, or causes to be made or disseminated, any statement or assertion of fact concerning the quantity, the quality, the method of production or manufacture, the cost of production, the cost to the advertiser or vendor, the present or former price, present or prospective value or the former, present or prospective earning power, or the reason for the price of such merchandise, shares of stock, bonds, mortgages, notes, copartnership units or service offered for sale or advertised by such person, firm, corporation or association, or concerning the manner or source of production or purchase, or the possession or rewards, prizes or distinctions conferred on account of the purchase or possession of such merchandise, shares of stock, bonds, mortgages, notes, copartnership units or service, which statement or assertion has the appearance of an offer advantageous to the purchaser, and is untrue or calculated to mislead, the person or corporation or firm, or the member or members of a firm, or directors of a corporation, or directors or trustees of an association, causing such statement or assertion to be made or disseminated, also the employee or agent making or disseminating such statement or assertion, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), or imprisonment for not more than one year, or both such fine and imprisonment, for each and every offense.

SECTION 2. This Act shall take effect and be in force from the date of its approval.

Approved this 20th day of April, A. D., 1915.

LUCIUS E. PINKHAM,
Governor of the Territory of Hawaii.

ACT 221

AN ACT

RELATING TO COMPENSATION TO EMPLOYEES FOR PERSONAL
INJURIES SUSTAINED IN THE COURSE OF THEIR EMPLOY-
MENT.

Be it Enacted by the Legislature of the Territory of Hawaii:

I.

RIGHTS AND REMEDIES GRANTED AND AFFECTED.

EMPLOYMENTS COVERED.

SECTION 1. This Act shall apply to any and all industrial employment, as hereinafter defined. If a workman receives personal injury by accident arising out of and in the course of such employment, his employer or the insurance carrier shall pay compensation in the amounts and to the person or persons hereinafter specified.

TERRITORIAL AND MUNICIPAL BODIES.

SECTION 2. This Act shall apply to employees (other than officials as hereinafter defined) of the Territory, and all counties, and all other political subdivisions within the Territory now existing or which may hereafter be created.

INJURIES NOT COVERED.

SECTION 3. No compensation shall be allowed for an injury caused (1) by the employee's wilful intention to injure himself or to injure another, or (2) by his intoxication. If the employer claims an exemption or forfeiture under this section the burden of proof shall be upon him.

RIGHT TO COMPENSATION EXCLUSIVE.

SECTION 4. The rights and remedies herein granted to an employee on account of a personal injury for which he is entitled to compensation under this Act shall exclude all other rights and remedies of such employee, his personal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury.

Employers, who hire workmen within this Territory to work outside of the Territory, may agree with such workmen that the remedies under this Act shall be exclusive as regards injuries received outside this Territory by accident arising out of and in the course of such employment; and all contracts of hiring in this Territory shall be presumed to include such an agreement.

LIABILITY OF THIRD PERSONS.

SECTION 5. When any injury for which compensation is payable under this Act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employee may, at his option, either claim compensation under this Act or obtain damages from or proceed at law against such other person to recover damages; and if compensation is claimed and awarded under this Act any employer having paid the compensation or having become liable therefor shall be subrogated to the rights of the injured employee to recover against that person, provided, if the employer shall recover from such other person damages in excess of the compensation already paid or awarded to be paid under this Act, then any such excess shall be paid to the injured employee less the employer's expenses and costs of action.

CONTRACTING OUT FORBIDDEN.

SECTION 6. No contract, rule, regulation, or device whatsoever shall operate to relieve the employer in whole or in part from any liability created by this Act.

II.

COMPENSATION.

DEATH BENEFITS.

SECTION 7. If death results from the injury within six months, the employer or the insurance carrier shall pay to the persons entitled to compensation or, if there be none, then to the personal representative of the deceased employee, burial expenses not to exceed one hundred dollars (\$100.00); and shall also pay to or for the following persons for the following periods a weekly compensation equal to the following percentages of the deceased employee's average weekly wages as defined in Section 15;

(a) To the dependent widow or widower, if there be no dependent children, forty per cent.

(b) To the dependent widow or widower, if there be one or two dependent children, fifty per cent., or if there be three or more dependent children, sixty per cent. Such compensation to the widow or widower shall be for the use and benefit of such widow or widower and of the dependent children, and the industrial accident board may from time to time apportion such compensation between them in such way as it deems best.

(c) If there be no dependent widow or widower, but a dependent child or children, then to such child or children thirty per cent., with ten per cent. additional for each child in excess of two, with a maximum of fifty per cent., to be divided equally among such children if more than one.

(d) If there be neither dependent widow, widower, nor child, but there be a dependent father or mother, then to such parent, if wholly dependent forty per cent., or if partially dependent twenty-five per cent., or if both parents be dependent then one-half of the foregoing compensation to each of them; or, if there be no such parents, but a dependent grandparent, then to every such grandparent the same compensation as to a parent.

(e) If there be neither dependent widow, widower, child, parent, or grandparent, but there be a dependent grandchild, brother, or sister, or two or more of them, then to such dependents twenty-five per cent. for one such dependent and five per cent. additional for each additional such dependent, with a maximum of forty per cent., to be divided equally among such dependents if more than one.

DEPENDENTS.

SECTION 8. The following persons, and they only, shall be deemed dependents and entitled to compensation under the provisions of this Act;

A child if under sixteen years of age, or incapable of self-support and unmarried, whether ever actually dependent upon the deceased or not;

The widow only if living with the deceased, or actually dependent, wholly or partially, upon him;

The widower only if incapable of self-support and actually dependent, wholly or partially, upon the deceased at the time of her injury;

A parent or grandparent only if actually dependent, wholly or partially, upon the deceased;

A grandchild, brother, or sister only if under sixteen years of age, or incapable of self-support, and wholly dependent upon the deceased. The relation of dependency must exist at the time of the injury.

An alien shall not be considered a dependent within the meaning of this Act unless actually residing within the United States, and any alien dependent leaving the United States shall thereupon lose all right to any benefits under this Act.

PERIODS OF COMPENSATION.

SECTION 9. The compensation herein provided for shall be payable during the following periods:

To a widow, until death or remarriage, but in no case to exceed three hundred and twelve weeks;

To a widower, during disability or until remarriage, but in no case to exceed three hundred and twelve weeks;

To or for a child, until sixteen years of age, but in the case of a child incapable of self-support and unmarried as long as so incapable, but in no case to exceed one hundred and four weeks beyond said age of sixteen years;

To a parent or grandparent, during the continuation of a condition of actual dependency, but in no case to exceed three hundred and twelve weeks;

To or for a grandchild, brother, or sister, during dependency as hereinbefore defined, but in no case to exceed three hundred and twelve weeks.

Upon the cessation of compensation under this section to or on account of any person, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable shall be that which such persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death.

CERTAIN WORDS DEFINED.

SECTION 10. As used in this section the term "child" includes step-children, adopted children, posthumous children, and illegitimate children, acknowledged previous to the injury, but does not include married children unless dependent. The terms "brother" and "sister" include step-brothers and step-sisters, half-brothers and half-sisters, and brothers and sisters by adoption, but do not include married brothers nor married sisters unless dependent. The term "grandchild" includes children of adopted children and children of step-children, but does not include step-children of children, step-children of step-children, step-children of adopted children, nor married grandchildren unless dependent. The term "parent" includes step-parents and parents by adoption. The term "grandparent"

includes parents of parents by adoption, but does not include parents of step-parents, step-parents of parents, nor step-parents of step-parents.

SUNDRY PROVISIONS AS TO DEATH BENEFITS.

SECTION 11. In computing death benefits the average weekly wages of the deceased employee shall be considered not to be more than thirty-six dollars (\$36.00), nor less than five dollars (\$5.00); but the total weekly compensation shall not exceed in any case the average weekly wages computed as provided in Section 15, nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars (\$5,000.00).

Payment of death benefits by an employer in good faith to a dependent subsequent in right to another or other dependent shall protect and discharge the employer unless and until such dependent or dependents prior in right shall have given him notice of his or their claim. In case the employer is in doubt as to the respective rights of rival claimants he may apply to the industrial accident board to decide between them.

In case death occurs after a period of disability, either total or partial, the period of disability shall be deducted from the total periods of compensation respectively stated in Section 9.

The compensation of a person who is insane shall be paid to his or her guardian.

MEDICAL ATTENDANCE.

SECTION 12. During the first fourteen days of disability the employer shall furnish reasonable surgical, medical and hospital services and supplies not exceeding the amount of fifty dollars (\$50.00). The pecuniary liability of the employer for the medical, surgical and hospital service herein required shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when such treatment is paid for by the injured person.

TOTAL DISABILITY.

SECTION 13. Where the injury causes total disability for work the employer during such disability, but not including the first fourteen days thereof, shall pay the injured employee a weekly compensation equal to sixty per cent. of his average weekly wages, but not more than eighteen dollars (\$18.00) nor less than three dollars (\$3.00) a week. In no case shall the weekly payments continue after the disability ends, nor longer than three hundred and twelve weeks, nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars (\$5,000.00).

In case of an employee whose average weekly wages are less than three dollars (\$3.00) a week the weekly compensation shall be the full amount of such average weekly wages, but where the disability is permanent the weekly compensation in such cases shall be three dollars (\$3.00). In case the total disability begins after a period of partial disability, the period of partial disability shall be deducted from such total period of three hundred and twelve weeks.

In the case of the following injuries the disability caused thereby shall be deemed total and permanent, to wit:

- (1) The total and permanent loss of sight in both eyes;
- (2) The loss of both feet at or above the ankle;
- (3) The loss of both hands at or above the wrist;
- (4) The loss of one hand and one foot;
- (5) An injury to the spine resulting in permanent and complete paralysis of both legs or both arms or of one leg or of one arm;
- (6) An injury to the skull resulting in incurable imbecility or insanity.

The above enumeration is not to be taken as exclusive.

PARTIAL DISABILITY.

SECTION 14. Where the injury causes partial disability for work, the employer, during such disability and for a period of

three hundred and twelve weeks beginning on the 15th day of disability, shall pay the injured workman a weekly compensation equal to fifty per cent. of the difference between his average weekly wages before the accident and the weekly wages he is most probably able to earn thereafter, but not more than twelve dollars (\$12.00) a week. In no case shall the weekly payments continue after the disability ends, and in case the partial disability begins after a period of total disability the period of total disability shall be deducted from such total period of three hundred and twelve weeks, nor shall the amount of compensation paid in any case exceed in the aggregate the sum of five thousand dollars (\$5,000.00).

In case of the following injuries the compensation shall be fifty per cent. of the average weekly wages, but not more than twelve dollars (\$12.00) to be paid weekly for the period stated against such injuries respectively, to wit:

(1) The loss by separation of one arm at or above the elbow joint, or the permanent and complete loss of the use of one arm, three hundred and twelve weeks;

(2) The permanent and complete loss of hearing in both ears, three hundred and twelve weeks;

(3) The loss by separation of one leg at or above the knee joint, or the permanent and complete loss of the use of one leg, two hundred and eighty-six weeks;

(4) The loss by separation of one hand at or above the wrist joint, or the permanent and complete loss of the use of one hand, two hundred and forty-eight weeks;

(5) The loss by separation of one foot at or above the ankle joint, or the permanent and complete loss of the use of one foot, two hundred and eight weeks.

COMPUTATION OF WAGES.

SECTION 15. Average weekly wages shall be computed in such a manner as is best calculated to give the average weekly earnings of the workman during the twelve months preceding

his injury; provided, that where, by reason of the shortness of the time during which the workman has been in the employment, or the casual nature of the employment, or the terms of the employment, it is impracticable to compute the rate of remuneration, regard may be had to the average weekly earnings, which, during the twelve months previous to the injury, were being earned by a person in the same grade employed at the same work by the employer of the injured workman, or if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district.

If a workman at the time of the injury is regularly employed in a higher grade of work than formerly during the year and with larger regular wages, only such larger wages shall be taken into consideration in computing his average weekly wages.

VOLUNTARY PAYMENTS.

SECTION 16. Any payments made by the employer or his insurer to the injured workman during the period of his disability, or to his dependents, which, by the terms of this Act, were not due and payable when made, may, subject to the approval of the board, be deducted from the amount to be paid as compensation; provided, that in case of disability such deduction shall be made by shortening the period during which compensation must be paid, and not by reducing the amount of the weekly payments under Sections 13 and 14.

PERIODICAL PAYMENTS.

SECTION 17. The board, upon the application of either party, may, in its discretion, having regard to the welfare of the employee and the convenience of the employer, authorize compensation to be paid monthly or quarterly instead of weekly.

COMMUTATION OF PAYMENTS.

SECTION 18. Whenever the board determines that it is for the best interest of all parties, the liability of the employer for

compensation may, on application to the board by any party interested, be discharged in whole or in part by the payment of one or more lump sums to be fixed by the board.

TRUSTEE IN CASE OF LUMP SUM PAYMENTS.

SECTION 19. Whenever for any reason the board deems it expedient, any lump sum which is to be paid as provided in Section 18 shall be paid by the employer to some suitable person or corporation appointed by the circuit court in the jurisdiction of which the injury occurred as trustee to administer or apply the same for the benefit of the person or persons entitled thereto in the manner provided by the board. The receipt of such trustee for the amount so paid shall discharge the employer or any one else who is liable therefor.

III.

PROCEDURE IN OBTAINING COMPENSATION.

MEDICAL EXAMINATION.

SECTION 20. After an injury and during the period of disability, the workman, whenever ordered by the board, shall submit himself to examination, at reasonable times and places, to a duly qualified physician or surgeon designated and paid by the employer. The workman shall have the right to have a physician or surgeon designated and paid by himself present at such examination, which right, however, shall not be construed to deny to the employer's physician the right to visit the injured workman at all reasonable times and under all reasonable conditions during total disability. If a workman refuses to submit himself to or in any way obstructs such examination, his right to take or prosecute any proceeding under this Act shall be suspended until such refusal or obstruction ceases, and no compensation shall be payable for the period during which such refusal or obstruction continues.

NOTICE OF INJURY AND CLAIM FOR COMPENSATION.

SECTION 21. No proceedings under this Act for compensation for an injury shall be maintained unless a notice of the injury shall have been given to the employer as soon as practicable after the happening thereof, and unless a claim for compensation with respect to such injury shall have been made within three months after the date of the injury; or, in case of death, then within three months after such death, whether or not a claim had been made by the employee himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by some one on his behalf. If payments of compensation have been made voluntarily the making of a claim within said period shall not be required.

FORM OF NOTICE AND CLAIM.

SECTION 22. Such notice and such claim shall be made in writing, and such notice shall contain the name and address of the employee, and shall state in ordinary language the time, place, nature, and cause of the injury, and shall be signed by him or by a person on his behalf, or, in the event of his death, by any one or more of his dependents or by a person on their behalf. The notice may include the claim.

GIVING OF NOTICE AND MAKING OF CLAIM.

SECTION 23. Any notice under this Act shall be given to the employer, or if the employer be a partnership, then to any one of the partners. If the employer be a corporation, then the notice may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or any agent in charge of the business at the place where the injury occurred. Such notice shall be given by delivering it or by sending it by mail by registered letter addressed to the employer at his or its last known residence or place of business. The foregoing provisions shall apply to the making of a claim.

SUFFICIENCY OF NOTICE.

SECTION 24. A notice given under the provisions of Section 21 of this Act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, nature, or cause of the injury, or otherwise, unless it is shown that the employer was in fact misled to his injury thereby. Want of notice or delay in giving notice shall not be a bar to proceedings under this Act if it be shown that the employer, his agent or representative, had knowledge of the accident or that the employer has not been prejudiced by such delay or want of notice.

LIMITATION OF TIME AS REGARDS MINORS AND INSANE.

SECTION 25. No limitation of time provided in this Act shall run as against any person who is mentally incompetent or a minor dependent so long as he has no guardian, or next friend.

IV.

INDUSTRIAL ACCIDENT BOARD.

CREATION OF BOARD.

SECTION 26. There shall be a board created, to be known as the Industrial Accident Board, in each county, consisting of five members to be appointed by the governor, as provided by Section 80 of the Organic Act. Each board shall elect its own chairman. Members of the boards shall hold office for five years except that when the boards are first constituted one member for each board shall be appointed for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter one member shall be appointed to each board every year for the full term of five years. Outgoing members shall be eligible for reappointment.

It shall be the duty of the county or city and county attorney, as the case may be, to act as attorney for the board in all matters coming before the board whenever requested to so act.

JURISDICTION.

SECTION 27. Each board shall have jurisdiction over the injuries occurring within the county for which it is appointed, or occurring to employees of residents of the county while such employees are without the Territory, or on vessels operated by residents of such county; provided, that if the principal business or occupation of the employer concerned or of the owner of the vessel is carried on in another county, the board of such other county shall have such jurisdiction.

SALARIES AND EXPENSES.

SECTION 28. The members of such boards shall serve without remuneration, except that they may be allowed their reasonable travelling and other expenses while proceeding to, attending, and returning from attendance of meetings of the board, or reasonably incurred in the discharge of their duties, which board may employ such assistance and clerical help as it may deem necessary, and fix the compensation of all persons so employed. All such salaries and expenses shall be paid out of such funds as shall be appropriated by the Legislature for the use of such boards.

RULES OF BOARD, WITNESSES, BLANKS.

SECTION 29. Each board may make rules not inconsistent with this Act for carrying out the provisions of this Act. Process and procedure under this Act shall be as summary and simple as reasonably may be. The board, or any member thereof, shall have the power to subpoena witnesses, administer oaths, and to examine such of the books and records of the parties to a proceeding as relate to the questions in dispute. The circuit court shall have power to enforce by proper proceedings the attendance and testimony of witnesses, and the production and examination of books, papers, and records. The board shall cause to be printed and furnished free of charge to any employer or employee such blank forms as it shall deem requisite to

facilitate or promote the efficient administration of this Act. Such blanks shall also be furnished by the board to the clerk of the circuit court who shall furnish the same to any employer or employee free of charge, but subject, however, to any rules and regulations the board shall make relating thereto.

AGREEMENTS.

SECTION 30. If the employer and the injured employee reach an agreement in regard to compensation under this Act, a memorandum of the agreement shall be filed with the board and, if approved by it, thereupon the memorandum shall for all purposes be enforceable under the provisions of Section 39, unless modified as provided in Section 37.

Such agreements shall be approved by the board only when the terms conform to the provisions of this Act.

COMMITTEE OF ARBITRATION.

SECTION 31. If the compensation is not settled by agreement, either party may make an application to the board for the formation of a committee of arbitration. Such committee shall consist of three members, one of whom shall be a member of the industrial accident board, or appointed by it, who shall act as chairman. The other two members shall be named, respectively, by the parties. If a vacancy occurs it shall be filled in the same way as the original appointment.

FORMATION OF COMMITTEE.

SECTION 32. Immediately after such application the board shall designate one of its members, or a substitute, to act as chairman of the committee of arbitration, and shall request the parties to appoint their respective representatives. If within seven days after such request, or after a vacancy has occurred, either party does not appoint his representative the board shall fill the vacancy and notify the parties to that effect.

HEARINGS AND AWARDS.

SECTION 33. The committee on arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the committee, unless otherwise agreed, shall be held in the city or town where the injury occurred if within this Territory, and the award of the committee, together with a statement of its findings of fact, rulings of law, and any other matters pertinent to the question arising before it, shall be filed with the industrial accident board of the respective county. A copy of the award shall be immediately sent to the parties. Unless a claim for a review is filed by either party within ten days after the sending of the award, it shall be enforceable under the provisions of Section 39.

EXAMINATION BY PHYSICIAN.

SECTION 34. Each industrial accident board, or any member thereof, may appoint a duly qualified impartial physician to examine the injured employee and to report. The fee for this service shall be three dollars (\$3.00) and travelling expenses, but the board may allow additional reasonable amounts in extraordinary cases.

EXPENSES OF ARBITRATION AND PHYSICIANS.

SECTION 35. The fees and expenses of arbitrators under Section 33 and of physicians under Section 34 shall be paid from the funds appropriated by the Legislature for the use of the respective boards.

REVIEW OF AWARD.

SECTION 36. If an application for review is made to any board, or if the committee fails to make an award within thirty days after its formation, the board shall allow a full trial and shall make an award which shall be filed with the record of proceedings and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award.

MODIFICATION OF AWARDS AND AGREEMENTS.

SECTION 37. On the application of any party on the ground of a change of conditions, the board may at any time, but not oftener than once in six months, review any agreement or award, and on such review may make an award ending, diminishing, or increasing the compensation previously agreed upon or awarded subject to the maximum and minimum provided in this Act, and shall state its conclusions of fact and rulings of law, and immediately send to the parties a copy of the award, but this section shall not apply to a commutation of payments under Section 18.

APPEALS FROM BOARD.

SECTION 38. An award of the board, in the absence of fraud shall be final and conclusive between the parties except as provided in Section 37, unless within ten days after a copy has been sent to the parties either party appeals to the circuit court of the circuit in which said board is located. In the County of Hawaii the circuit court shall be that of the fourth circuit. In case of every such appeal the right of a trial by jury shall be deemed to be waived unless claimed within ten days from the date such appeal is entered. Said court may by proper rules prescribe the procedure to be followed in the case of such appeals.

The board may certify questions of law to the supreme court of the Territory for its determination.

ENFORCEMENT OF AWARD.

SECTION 39. Any party in interest may file in the circuit court in the jurisdiction of which the injury occurred a certified copy of a decision of the board awarding compensation, from which no appeal has been taken within the time allowed therefor or a certified copy of a decision of an arbitration committee awarding compensation from which no claim for review has been filed within the time allowed therefor, or a certified copy of a memorandum of agreement approved by the board, where-

upon said court shall render a decree or judgment in accordance therewith and notify the parties thereof. Such decree or judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said decree or judgment had been rendered in a suit duly heard and determined by said court, except that there shall be no appeal therefrom.

COSTS.

SECTION 40. If the committee of arbitration, industrial accident board, or any court before whom any proceedings are brought under this Act, determines that such proceedings have been brought, prosecuted, or defended without reasonable ground it may assess the whole cost of the proceedings upon the party who has so brought, prosecuted, or defended them.

GENERAL POWERS OF BOARD.

SECTION 41. All questions arising under this Act, if not settled by agreement of the parties interested therein with the approval of the board, shall, except as otherwise herein provided, be determined by the board. The decisions of the board shall be enforceable by the circuit court under the provisions of Section 39. There shall be a right of appeal from decisions of the board to the circuit court as provided in Section 38, but in no case shall such an appeal, either under this section or under Section 38, operate as a supersedeas or stay unless the board or the circuit court shall so order.

REVISION DECREES.

SECTION 42. The circuit court, upon the filing with it of a certified copy of a decision of the industrial accident board ending, diminishing, or increasing compensation previously awarded, shall revoke or modify its prior decree or judgment so that it will conform to said decision.

INJURIES OUTSIDE THE TERRITORY.

SECTION 43. If a workman who has been hired in this Territory receives personal injury by accident arising out of

and in the course of such employment, he shall be entitled to compensation according to the law of this Territory even though such injury was received outside this Territory.

If a workman who has been hired outside of this Territory is injured while engaged in his employer's business, and is entitled to compensation for such injury under the law of the state or territory where he was hired, he shall be entitled to enforce against his employer his rights in this Territory if his rights are such that they can reasonably be determined and dealt with by the board and the court in this Territory.

V.

PREFERENCES AND ASSIGNMENTS.

PREFERENCES.

SECTION 44. All rights of compensation granted by this Act shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

ASSIGNMENTS. ATTORNEYS' FEES.

SECTION 45. No claims for compensation under this Act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors. Claims of attorneys and of physicians for services under this Act shall be subject to the approval of the board.

VI.

SECURITY FOR COMPENSATION.

SECURITY FOR PAYMENT OF COMPENSATION.

SECTION 46. Employers, but not including the territorial or the municipal bodies mentioned in Section 2, shall secure compensation to their employees in one of the following ways:

(1) By insuring and keeping insured the payment of such compensation with any stock corporation or mutual association

authorized to transact the business of workmen's compensation insurance in this Territory, or

(2) By obtaining and keeping in force guarantee insurance with any company authorized to do such guarantee business within the Territory, or

(3) By depositing and maintaining with the territorial treasurer security satisfactory to the board securing the payment by said employer of compensation according to the terms of this Act.

(4) Upon furnishing satisfactory proof to the board of his solvency and financial ability to pay the compensation and benefits herein provided, no insurance or security shall be required, and the employer shall make such payments directly to his employees, as they may become entitled to receive the same under the terms and conditions of this Act.

Any person who wilfully misrepresents any fact in order to obtain the benefits of this section shall be guilty of a misdemeanor.

Any decision of the board rendered under the provisions of subdivisions 3 and 4 of this section with respect to the amount of security required or refusing to permit no security to be given shall be subject to review on appeal by the circuit court in like manner as appeals are permitted under Section 38 of this Act.

NOTICE OF INSURANCE.

SECTION 47. If the insurance so effected is not under subdivisions 3 or 4 of Section 46 the employer shall forthwith file with the territorial treasurer and with the board in form prescribed by the board a notice of his insurance, together with a copy of the contract or policy of insurance.

EFFECT OF FAILURE TO SECURE COMPENSATION.

SECTION 48. If an employer fails to comply with the provisions of Section 46 he shall be liable to a penalty for every day during which such failure continues, of one dollar (\$1.00)

for every employee, to be recovered in an action brought by the chairman of the board in the name of the Territory, and the amounts so collected shall be paid into the territorial treasury and be a special fund for the use of the board. It shall be the duty of the county attorney of each county to prosecute such suits, if so requested by the board.

The board may, however, in its discretion, for good cause shown, remit any such penalty in whole or in part, provided the employer in default forthwith secures compensation as provided in Section 46.

Furthermore, if any employer shall be in default under Section 46, for a period of thirty days, he may be enjoined by the circuit court from carrying on his business while such default continues.

THE INSURANCE CONTRACT.

SECTION 49. Every policy of insurance and every guarantee contract covering the liability of the employer for compensation, whether issued by a stock company, or by a mutual association authorized to transact workmen's compensation or guarantee insurance in this Territory shall cover the entire liability of the employer to his employees covered by the policy or contract, and also shall contain a provision setting forth the right of the employees to enforce in their own names either by at any time filing a separate claim or by at any time making the insurance carrier a party to the original claim, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided however that payment in whole or in part of such compensation by either the employer or the insurance carrier shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

KNOWLEDGE OF EMPLOYER TO AFFECT INSURANCE CARRIER.

SECTION 50. Every such policy and contract shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the in-

jury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this Act, be jurisdiction of the insurance carrier, and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions, or awards rendered against the employer for the payment of compensation under the provisions of this Act.

INSOLVENCY OF EMPLOYER NOT TO RELEASE INSURANCE CARRIER.

SECTION 51. Every such policy and contract shall contain a provision to the effect that the insolvency or bankruptcy of the employer and his discharge therein shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of such policy or contract.

CANCELLATION OF INSURANCE CONTRACTS.

SECTION 52. No policy or contract of insurance or guaranty issued by a stock company or mutual association against liability arising under this Act shall be cancelled within the time limited in such contract for its expiration until at least ten days after notice of intention to cancel such contract, on a date specified in such notice, shall have been filed in the office of the territorial treasurer and also served on the board and the employer.

INSURANCE BY THE TERRITORY, COUNTIES AND MUNICIPALITIES.

SECTION 53. The Territory, and each county, and any other political subdivision of the Territory, which is liable to its employees for compensation may insure with any authorized insurance carrier.

EMPLOYEES NOT TO PAY FOR INSURANCE.

SECTION 54. No agreement by an employee to pay any portion of the premium paid by his employer to contribute to a

benefit fund or department maintained by such employer, or to the cost of mutual or other insurance maintained for or carried for the purpose of securing compensation as herein required shall be valid; and any employer who makes a deduction for such purpose from the wages or salary of any employee entitled to the benefits of this Act shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not to exceed two hundred and fifty dollars (\$250.00).

INSPECTIONS.

SECTION 55. The board shall have the right to inspect the plants and establishments of all employers in the Territory and the inspectors designated by the board shall have free access to such premises during regular working hours, and at other reasonable times.

VII.

REPORTS, DEFINITIONS, AND GENERAL PROVISIONS.

REPORT OF ACCIDENTS BY EMPLOYERS.

SECTION 56. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment, when known to him or brought to his attention. As soon as practicable after the occurrence of an injury causing absence from work for one day or more, a report thereof shall be made in writing by the employer to the board on blanks to be procured from the board for the purpose.

Upon the termination of the disability of the injured employee, the employer shall make a supplemental report upon blanks to be procured from the board for that purpose. If the disability extends beyond a period of sixty days, the employer shall report to the board at the end of such period that the injured employee is still disabled, and upon the termination of the disability shall file a final supplemental report as provided above.

The said reports shall contain the name and nature of the business of the employer, the situation of the establishment, the name, age, sex, wages, and occupation of the injured employee, and shall state the date and hour of the accident causing the injury, the nature and cause of the injury, and such other information as may be required by the board.

Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than twenty-five dollars (\$25.00) for each offense.

Within sixty days after the termination of the disability of the injured employee, the employer or other party liable to pay the compensation provided for by this Act shall file with the board a statement showing the total payments made or to be made for compensation and for medical services for such injured employee.

INTERSTATE COMMERCE.

SECTION 57. This Act shall affect the liability of employers to employees engaged in interstate or foreign commerce or otherwise only so far as the same is permissible under the laws of the United States.

REPORTS OF INDUSTRIAL ACCIDENT BOARDS.

SECTION 58. Annually on or before the first day of February, the board of each county shall make a report to the governor which shall be transmitted to the legislature and which shall include a properly classified statement of the expenses of the board together with any other matters which the board deems proper to report, including any recommendations it may desire to make.

SECTION 59. Whenever under this Act any award, order, rule, regulation or decision is required or authorized to be made by the board or by a committee of arbitration the action of a majority of the members of such board or committee shall be

considered as the action of such board or committee, respectively, as the case may be.

DEFINITIONS.

SECTION 60. In this Act, unless the context otherwise requires:

(a) "Employer" unless otherwise stated, includes any body of persons, corporate or unincorporated, public or private, and the legal representative of a deceased employer. It includes the owner or lessee of premises, or other person who is virtually the proprietor or operator of the business there carried on, but who, by reason of there being an independent contractor, or for any other reason, is not the direct employer of the workmen there employed. If the employer is insured it includes his insurer as far as applicable.

(b) "Workman" is used as synonymous with "employee," and means any person who has entered into the employment of, or works under contract of service or apprenticeship with, an employer. It does not include a person whose employment is purely casual or not for the purpose of the employer's trade or business, or whose remuneration from any one employer, excluding pay for over-time, exceeds thirty-six dollars (\$36.00) a week. Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependents as herein defined, if the context so requires, or, where the employee is a minor or incompetent, to his guardian or next friend.

(c) "Injury" or "personal injury" includes death resulting from injury within two years.

(d) The words "personal injury by accident arising out of and in the course of such employment" shall include an injury caused by the wilful act of a third person directed against an employee because of his employment.

They shall not include a disease except as it shall result from injury.

(e) "Employment," in the case of private employers, includes employment only in a trade or occupation which is carried on by the employer for the sake of pecuniary gain.

Public employment means employment by the Territory, or by a county, or by any political subdivision of the Territory now existing or which may hereafter be created.

It does not include the employment of public officials who are elected by popular vote or who receive salaries exceeding eighteen hundred dollars (\$1,800.00) a year.

(f) The word "board" or words "industrial accident board," whenever used in this Act, unless the context shows otherwise, shall be taken to mean the industrial accident board of the respective county.

(g) "Partial disability." Diminished ability to obtain employment owing to disfigurement resulting from an injury may be held to constitute partial disability.

(h) "Wages" shall include the market value of board, lodging, fuel, and other advantages which can be determined in money which the employee receives from the employer as a part of his remuneration.

"Wages" shall not include any sums which the employer has paid to the employee to cover any special expenses entailed on him by the nature of his employment.

(i) "Insurance carrier" shall include stock corporations or mutual associations from any of which employers have obtained workmen's compensation insurance or guaranty insurance in accordance with the provisions of this Act.

(j) The word "county" includes the City and County of Honolulu.

(k) Any term shall include the singular and plural and both sexes where the context so requires.

UNCONSTITUTIONAL PROVISIONS.

SECTION 61. If any part or section of this Act be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the Act as a whole, or any part thereof

which can be given effect without the part so decided to be unconstitutional or invalid [REDACTED].

PENALTIES FOR FALSE REPRESENTATIONS.

SECTION 62. If for the purpose of obtaining any benefit or payment under the provisions of this Act, either for himself or for any other person, any one wilfully makes a false statement or representation, he shall be guilty of a misdemeanor and liable to a fine of not exceeding two hundred and fifty dollars (\$250.00).

PRIOR INJURIES.

SECTION 63. The provisions of this Act shall not apply to injuries sustained, or accidents which occur, prior to the taking effect hereof.

RULES OF CONSTRUCTION.

SECTION 64. (a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this Act.

(b) This Act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

PRIOR STATUTES. REPEAL.

SECTION 65. All Acts and parts of Acts inconsistent with this Act here hereby repealed.

TITLE OF ACT.

SECTION 66. This Act may be cited as the "Workmen's Compensation Act."

TIME OF TAKING EFFECT.

SECTION 67. This Act shall take effect on the first day of July, 1915.

Approved this 28th day of April, A. D. 1915.

LUCIUS E. PINKHAM,
Governor of the Territory of Hawaii.

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